

effectively than Senator Connally and Congressman Buchanan.

The public money that has been expended, and given away if you please, has not been wasted. The money has not been burned up. No sooner does a hungry person receive a dollar from his Government than he spends it for food—it goes back into circulation. That we must alter this course, now that the danger has passed is recognized by President Roosevelt as it is by all thinking people. When you reflect upon the state of our minds, and our economic situation at the beginning of 1933, and then take stock today, the answer is obvious.

As one speaker has very kindly stated, I was also privileged to serve our country during the World War under another and matchless Democratic President, Woodrow Wilson, a great statesman, a great scholar, and a great man. Of our outstanding Presidents since the beginning of our Republic, we as Democrats, can be especially proud of Jefferson, Madison, Monroe, Jackson, Cleveland, Wilson and Roosevelt.

I am glad that I am a Democrat, because I believe the principles of the Democratic Party are more nearly the principles of volunteer America, and we are still volunteers.

As I look about me and see the leader of our party in Texas, Governor Allred; and Lieutenant-Governor Woodul, Commissioner Thompson, General McGraw, and you other young men who are in charge of our State politics today and tomorrow, I have greater confidence in the democracy of our party, and in its future.

#### FIFTEENTH DAY.

Senate Chamber,  
Austin, Texas,  
October 8, 1935.

The Senate met at 11 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Will M. Martin.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Cotten.
Blackert.	Davis.
Burns.	DeBerry.
Collie.	Hill.

Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Sanderford.
Isbell.	Shivers.
Martin.	Small.
Neal.	Stone.
Nelson.	Sulak.
Oneal.	Van Zandt.
Pace.	Westerfeld.
Poage.	Woodruff.
Rawlings.	

Absent—Excused.

Fellbaum.	Moore.
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Prayer by the Chaplain.

Further reading of the Journal was dispensed with on motion of Senator Woodruff.

#### Petitions and Memorials.

(See Appendix.)

#### Committee Reports.

(See Appendix.)

#### Minutes of Committee Meetings.

(See Appendix.)

#### Bills and Resolutions.

#### Message From the House.

The Chair recognized the Door-keeper, who introduced a messenger from the House with the following message:

Hall of the House of Representatives,  
Austin, Texas, Oct. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill and resolutions:

H. B. No. 83, A bill to be entitled "An Act fixing the compensation of district attorneys in judicial districts composed of two or more counties; providing that this Act shall not deprive such district attorneys of their expense allowance; providing for the disposition of fees; commissions and perquisites earned and collected by such district attorneys; etc., and declaring an emergency."

H. C. R. No. 10, "Providing for disposal of certain articles by the Board of Control."

H. C. R. No. 13, "Suspending Sections 22 and 23 of the joint rules of the Senate and House for the purpose of taking up and considering until finally disposed of, House Bills No. 1, 16 and 43."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

**Bill and Resolutions Referred.**

H. C. R. No. 13, was referred to the Committee on Rules.

H. C. R. No. 10 was referred to the Committee on Contingent Expense.

H. B. No. 83 was referred to the Committee on State Affairs.

**Senate Bill No. 57.**

By Senator Regan:

S. B. No. 57, A bill to be entitled "An Act to amend Section 1 of Chapter 221, H. B. No. 320, passed at the Regular Session, Forty-fourth Legislature, General Laws, page 530, and declaring an emergency."

Read and referred to the Committee on Education.

**Senate Bill No. 58.**

By Senator Nelson:

S. B. No. 58, A bill to be entitled "An Act amending Section 2, H. B. 327, Chapter 350, General Laws of the Forty-fourth Legislature, Regular Session; and declaring an emergency."

Read and referred to the Committee on Education.

**Senate Bill No. 59.**

By Senator Westerfeld:

S. B. No. 59, A bill to be entitled "An Act to appropriate money to pay judgment for the sum of \$2,627.51 against the State of Texas in favor of Alton E. Stewart in cause no \_\_\_\_ in the 126th District Court of Travis County, and declaring an emergency."

Read and referred to the Committee on Finance.

**S. C. R. No. 5.**

Senator Redditt sent up the following resolution:

Whereas, S. J. R. No. 3, proposing an amendment to Article XVI of the Constitution of Texas by striking out Sec. 20-a to Sec. 20-d, both inclusive, prohibiting the open saloon and vesting in the Legislature the power to define and enact laws against such; vesting in the Legislature the power to regulate the manufacture, sale, possession and transportation of intoxicating liquors, including the power to establish a State monopoly on the sale of distilled liquors; providing that in all counties, justice's precincts, or incorporated towns or cities wherein the sale of intoxicating liquors had been prohibited by local option

elections held under the laws of the State of Texas, and in effect at the time of the taking effect of Section 20, Article XVI of the Constitution of the State of Texas, until a majority of the qualified voters in such county or political subdivision shall determine such to be lawful at an election held for that purpose, was by the Forty-fourth Legislature, regular session, submitted to a vote of the qualified electors of the State of Texas at a special election held throughout the State of Texas on the 4th Saturday in August, 1935; and

Whereas, Such special election having been held in the mode and manner provided by law, and at said election a majority of the qualified electors voting in such election cast the ballot in favor of the amendment "for the amendment to the State Constitution repealing statewide prohibition, prohibiting the open saloon and providing for local option"; and,

Whereas, By virtue of the foregoing, Honorable James V. Allred, Governor of the State of Texas, by virtue of the authority vested in him by the Constitution of the State of Texas, did, on the 29th day of August, 1935, call a Special Session of the Forty-fourth Legislature to be convened in the city of Austin, commencing at 12 o'clock noon on Monday the 16th day of September, A. D., 1935, for the following purposes:

1. To define the term "open saloon" and enact laws prohibiting the same.

2. To enact laws regulating the manufacture, sale, transportation and possession of intoxicating liquors, and to preserve the absolute integrity of dry territory.

3. To consider and act on such other subjects of public importance as the Governor may, from time to time during the session, submit by message; and

Whereas, On the 16th day of September, A. D., 1935, at 12 o'clock noon, the Legislature of the State of Texas, by virtue of the proclamation issued by the Governor of this State, did convene in special session; and,

Whereas, On said date Honorable James V. Allred, Governor of the State of Texas, did submit to the members of the Forty-fourth Legislature his message by virtue of his

proclamation, which said message specifically requested the passage of legislation defining the term "open saloon," and for the regulation of the manufacture, sale, transportation and possession of intoxicating liquors, and to preserve the absolute integrity of dry territory; and

Whereas, By virtue of the proclamation and message from the Governor of the State of Texas, various bills were introduced in both the House and Senate, dealing with the matters specifically mentioned in the Governor's message, which said bills have not been passed to this date by either House of the Legislature; and

Whereas, Chaotic and uncertain conditions are now prevailing throughout the State with reference to liquor laws, and spirituous, vinous and malt liquors are being sold openly in this State without regulation or restriction of any kind or character in wet territories; and

Whereas, The State of Texas and political subdivisions of the State, by reason of the fact that spirituous, vinous and malt liquors are being sold in this State without taxation, are losing daily a sum estimated to be not less than \$15,000.00 to \$25,000.00, which said taxes or revenues would produce an annual reveue estimated at from five to ten millions of dollars; and

Whereas, The General Fund of the State of Texas has a large deficit; and

Whereas, The Legislature of this State, under the direct mandate of the people of this State, must pass legislation for old age assistance, which will incur large sums of money; and

Whereas, The revenues to be derived from the manufacture and sale of spirituous, vinous and malt liquors will produce a large sum of money for the payment of these just obligations; and

Whereas, On the 18th day of September, A. D., 1935, the Governor of the State of Texas submitted to the Legislature of this State the problem of providing for old age assistance, which was by virtue of the amendment to the Constitution of the State of Texas authorized by the people of this State at an election held on August 24th, 1935; and

Whereas, At this time there are

many thousands of worthy and honorable citizens of this State who are legally and justly entitled to old age assistance; and

Whereas, By an overwhelming vote of approximately three and one-half to one, the people of this state authorized an amendment to the Constitution of this State which would enable this Lagislature to consider and pass proper and adequate old age assistance; and

Whereas, The duly qualified voters of this State, by their adoption of the Constitutional amendment, have given a direct mandate to this Legislature to pass adequate legislation for old age assistance; and

Whereas, The Governor of the State of Texas, on the 17th day of September, A. D., 1935, submitted to the Legislature of this State the problem of placing all fee officers of this State on a salary basis, which said action was the result of a Constitutional amendment adopted on the 24th day of August, 1935, which said amendment specifically directed the Legislature of this State, at the First Called Session of the Legislature, to fix salaries for said officers; and

Whereas, An uncertain condition exists among the officers and citizens of this State as to the status of all officers affected by said amendment, and it is now uncertain that said officers can legally draw any compensation after January 1, 1936; and

Whereas, The primary objects and purposes of the First Called Session of the Forty-fourth Legislature were:

(1) To enact laws regulating the manufacture, sale, transportation and possession of intoxicating liquors, and to preserve the absolute integrity of dry territory;

(2) To abolish the fee system and provide adequate and reasonable salaries for all officers affected thereby;

(3) To provide adequate, just and proper old age assistance to the citizens of this State; and

Whereas, This is the 8th day of October, A. D., 1935, and this Called Session has been in session since the 16th day of September, A. D., 1935, and only a few days remain until the adjournment date thereof, which is fixed by the Constitution, and must expire thirty days from the date of convening; and

Whereas, There are many bills pending both in the House and in

the Senate, dealing with liquor regulation, the fee system and old age assistance; and

Whereas, It is of great public importance and necessity that this Legislature pass legislation for the regulation and manufacture and sale of spiritous, vinous and malt liquors, for the abolishment of the fee system, and for old age assistance, bills on all three of said subjects now pending in this Legislature; and

Whereas, Under the joint rules of the House and Senate, neither the House nor the Senate will have the opportunity of devoting all of its time to House Bills and Senate Bills without the consent of the other;

Be it Resolved by the Senate of Texas, the House concurring

First: That the Legislature devote all of the remaining time of this session to the consideration and passage of bills on the following subjects:

(1) The regulation of manufacture and sale of spiritous, vinous and malt liquors, defining "open saloon" and protecting local option;

(2) The abolishment of the fee system and providing adequate and reasonable salaries for all fee officers affected thereby;

(3) The passage of bills providing for adequate and proper old age assistance.

Second: That all joint rules of the House and Senate be suspended to authorize the foregoing, and each House is specifically authorized and empowered, and is hereby directed to take up and consider said bills until finally acted upon in the order named.

Third: That during said remaining few days of this session the Legislature of this State shall devote every available minute, day and night, in order that the purposes and objects of this session be fully accomplished; in particular, that liquor traffic in this State be controlled and revenue be obtained therefrom, that just and reasonable salaries for the fee officers of this State be provided, and that proper and adequate old age assistance be provided.

REDDITT.

Read.

Senator Redditt asked unanimous consent to suspend the rule requiring resolutions be referred to a committee.

Senator Shivers was recognized and asked unanimous consent to send up and amendment.

Point of Order.

Senator DeBerry raised the point of order, that there were two rules that would apply first the rule requiring resolutions to be referred to a committee, and the rule requiring amendments to the rules to be referred to the Rules Committee therefore the resolution is not up for consideration nor amendments.

The Chair sustained the first point of order.

Senator Redditt moved to suspend the rule requiring resolutions be referred to a committee.

Motion pending.

Presentation.

Senator Redditt yielded to Senator Shivers who spoke briefly to the Senators and Senate ladies and called upon Senators Hill and Hopkins to escort Senator and Mrs. Gordon Burns to the platform. Senator Shivers on behalf of the Senate presented a lovely silver tray to Mrs. Burns and Senator Burns.

Each of them expressed their appreciation in brief speeches.

S. C. R. No. 5.

The question recurred on the pending motion.

Senator Collie called for a second reading of the resolving clause.

Senator Burns was recognized and asked unanimous consent to send up an amendment.

Point of Order.

Senator DeBerry raised same point of order.

The Chair sustained the point of order.

Senator Poage spoke for ten minutes on the resolution.

Senator Hill asked unanimous consent that Senator Poage's time be extended.

Senator Poage yielded to Senator Davis who spoke for ten minutes on the resolution.

The pending motion lost by the following vote:

Yeas—7.

Holbrook.	Redditt.
Hopkins.	Small.
Pace.	Stone.
Rawlings.	

## Nays—20.

Blackert.	Neal.
Burns.	Nelson.
Collie.	Oneal.
Cotten.	Poage.
Davis.	Sanderford.
DeBerry.	Shivers.
Hill.	Sulak.
Hornsby.	Van Zandt.
Isbell.	Westerfeld.
Martin.	Woodruff.

## Absent.

Beck.	Regan.
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## Absent—Excused.

Fellbaum.	Moore.
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The resolution was referred to the Committee on Rules.

**House Bill No. 52.**

Senator Woodruff was recognized and moved to recommit H. B. No. 52 to the Committee on State Affairs.

**Point of Order.**

Senator Holbrook raised the point of order that today was not House Bill day therefore the motion was out of order and could only be made on House Bill day.

Senator Woodruff withdrew his motion temporarily.

**S. C. R. No. 6.**

Senator Regan was recognized and received unanimous consent to send up the following resolution:

Be It Resolved, By the Senate of Texas, the House of Representatives concurring therein:

Whereas, By Act of the First Called Session of the 40th Legislature approved June 9, 1927, the State Highway Commission was directed to immediately make a survey of a highway, to be a part of the system of State highways and to be known as the Davis Mountains State Park Highway, approximately 75 miles long and traversing a mountain area, all more than one mile above sea level; and perhaps unsurpassed in America or the world for scenic beauty and climate suited for both summer and winter recreation; and

Whereas, Said Act provided that said highway so surveyed should be located along routes where the right-of-way might be obtained without ex-

pense to the State and where the State Highway Commission might also be able to obtain donations to the State of tracks of land abutting on said highway sufficient in extent and satisfactorily located, in the judgment of the Commission, for the use of the people of Texas for camping accommodations and for park purposes; and

Whereas, Said survey has long been completed; and the right-of-way and recreation grounds provided for have long been donated and accepted and approved by the Highway Commission, and said highway has long been duly located as provided by law, and its construction ordered, by the State Highway Commission; and the first fourteen miles thereof, has long since been completed and in use extending from the City of Fort Davis to Mount Locke on which the great observatory of the University of Texas and the University of Chicago is located; and

Whereas, It is highly desirable that the people of Texas should be enabled, with the least possible delay, to utilize this Davis Mountains area, comprising literally the highest and probably the most beautiful mountains between the Rockies and the Alps for recreation purposes; and

Whereas, It is highly important that the thousands of Centennial visitors from other States next year, shall have the opportunity of visiting and inspecting this great Texas Mountain Area;

Therefore: We earnestly urge the Texas State Highway Commission immediately to take all proper steps to secure the cooperation of any and all appropriate agencies of the Federal Government in making provision for the use of unemployed labor in completing the Davis Mountains State Park Highway so that the area which it traverses may be utilized by the public for recreation purposes to the largest possible extent with the least possible delay; and we further earnestly urge the Texas Planning Commission to cooperate in all proper and practicable ways to secure the accomplishment of this end.

REGAN.

Read.

Senator Regan asked unanimous consent to suspend the rule requiring resolutions be referred to a committee.

Objections were heard.

Senator Regan moved to suspend the rule requiring resolutions be referred to a committee.

The motion prevailed by the following vote:

Yeas—19.

Burns.	Rawlings.
Cotten.	Redditt.
Davis.	Regan.
Hopkins.	Sanderford.
Hornsby.	Shivers.
Martin.	Small.
Neal.	Stone.
Nelson.	Van Zandt.
Oneal.	Westerfeld.
Poage.	

Nays—6.

Blackert.	Holbrook.
DeBerry.	Sulak.
Hill.	Woodruff.

Present—Not Voting.

Collie.

Absent.

Beck.	Pace.
Isbell.	

Absent—Excused.

Fellbaum.	Moore.
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The resolution was adopted by the following vote:

Yeas—20.

Burns.	Poage.
Cotten.	Rawlings.
Davis.	Redditt.
Hopkins.	Regan.
Hornsby.	Sanderford.
Isbell.	Shivers.
Martin.	Small.
Neal.	Stone.
Nelson.	Van Zandt.
Oneal.	Westerfeld.

Nays—7.

Blackert.	Holbrook.
Collie.	Sulak.
DeBerry.	Woodruff.
Hill.	

Present—Not Voting.

Pace.

Absent.

Beck.

Absent—Excused.

Fellbaum.

Moore.

House Bill No. 52.

Senator Woodruff renewed his motion to recommit H. B. No. 52 to the Committee on State Affairs.

Motion pending.

Recess.

Senator Van Zandt at 12:25 o'clock p. m. moved that the Senate recess until 2:15 o'clock p. m.

The motion prevailed unanimously.

After Recess.

The Senate met at 2:15 o'clock p. m. pursuant to recess, and was called to order by President Pro Tem. Will M. Martin.

House Bill No. 52.

Pending business was Senator Woodruff's pending motion to recommit H. B. No. 52.

Senator Woodruff yielded to Senator Small, who received unanimous consent to send up the following bill:

Senate Bill No. 60.

By Senator Small:

S. B. No. 60, A bill to be entitled "An Act creating a special road law for Swisher County, Texas, providing that said county may fund or refund the indebtedness outstanding against its road and bridge fund as of July 8, 1935, setting forth the method of operation; validating the indebtedness proposed to be funded or refunded; validating all Acts and proceedings heretofore had by the commissioners' court of said county, and officers thereof, in respect to the funding or refunding of said indebtedness; providing this law shall be cumulative of general laws on the subject of roads and bridges and general laws on funding or refunding bonds, not in conflict herewith; enacting provisions incident and relating to the subject and purpose of this Act; repealing all laws in conflict, and declaring an emergency."

Read and referred to the Committee on Highways and Motor Traffic.

Senator Woodruff yielded to Senator Neal.

#### Senate Bill No. 48.

Senator Neal asked unanimous consent to suspend the regular order of business to take up S. B. No. 48.

Senator Collie objected.

#### House Bill No. 52.

The question recurred on the pending motion.

#### Motion to Table.

Senator Holbrook moved to table the motion to rerefer.

#### Point of Order.

Senator Collie raised the point of order that the motion to rerefer H. B. No. 52 was out of order as there was a motion pending to rerefer S. B. No. 23.

The point of order was overruled.

The motion to table was lost by the following vote:

#### Yeas—11.

Collie.	Redditt.
Cotten.	Regan.
Holbrook.	Sanderford.
Martin.	Small.
Neal.	Stone.
Rawlings.	

#### Nays—13.

Blackert.	Oneal.
Burns.	Pace.
DeBerry.	Poage.
Hill.	Sulak.
Hornsby.	Westerfeld.
Isbell.	Woodruff.
Nelson.	

#### Absent.

Beck.	Shivers.
Davis.	Van Zandt.
Hopkins.	

#### Absent—Excused.

Fellbaum.	Moore.
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The question recurred on the motion to rerefer H. B. No. 52.

Senator Holbrook was recognized

The Chair informed Senator Holbrook that the time for discussion had expired.

Senator Woodruff was recognized to send up the following amendment:

Amend motion to rerefer H. B. No. 52 to the Committee on State Affairs by adding the following at the end of the motion:

"With instructions to hold hearings thereon today and report same by 10 a. m. Wednesday, Oct. 9, 1935."

WOODRUFF.

#### Motion to Extend Time.

Senator Stone was recognized and moved that Senator Holbrook's time be extended.

#### Point of Order.

Senator DeBerry raised the point of order that Senator Stone's motion was out of order as Senator Holbrook had lost the floor and Senator Woodruff had been recognized to send up an amendment, and that the amendment was before the Senate.

The Chair sustained the point of order.

The amendment was read and adopted.

The motion to rerefer H. B. No. 52 prevailed by the following vote:

#### Yeas—17.

Blackert.	Nelson.
Burns.	Oneal.
Davis.	Pace.
DeBerry.	Poage.
Hill.	Sanderford.
Hornsby.	Sulak.
Isbell.	Westerfeld.
Martin.	Woodruff.
Neal.	

#### Nays—8.

Collie.	Redditt.
Cotten.	Regan.
Holbrook.	Small.
Rawlings.	Stone.

#### Absent.

Beck.	Shivers.
Hopkins.	Van Zandt.

#### Absent—Excused.

Fellbaum.	Moore.
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**Senate Bill No. 23.**

Recurring business was the pending motion to rerefer S. B. No. 23. Senator Sanderford was recognized on his pending point of order.

**Point of Order.**

Senator DeBerry raised the point of order that Senator Sanderford was not discussing the pending point of order, but was discussing the merits of the bill.

The Chair requested Senator Sanderford to confine his remarks to the point of order.

The Chair sustained the point of order, raised by Senator Sanderford against the amendment offered by Senator Small to the motion by Senator Woodruff.

The question recurred on the motion made by Senator Woodruff which had become the original motion since the motion made by Senator Sanderford yesterday had become moot.

Senator DeBerry sent up the following amendment:

Amend Woodruff motion by striking out all after the word "committee" where it appears the second time and inserting in lieu thereof the following: "to incorporate provisions to restrict the old-age pensions to the needy and indigent only and that such committee report back at the earliest practicable time."

**DEBERRY.**

Read and pending.

**Messages From the House.**

The Chair recognized the Doorkeeper, who introduced a messenger from the House with the following messages:

Hall of the House of Representatives,  
Austin, Texas, Oct. 8, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted House Simple Resolution No. 37, requesting the return of H. C. R. No. 13 to the House for correction.

Respectfully submitted,  
**LOUISE SNOW PHINNEY,**  
Chief Clerk, House of Representatives.

Hall of the House of Representatives,  
Austin, Texas, Oct. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 101, A bill to be entitled "An Act granting aid to the property in and inhabitants of Hidalgo County, Texas, and to Hidalgo County made necessary by reason of its location on the Gulf Coast and by reason of calamitous overflows, floods, storms and freezes which cause great destruction of property and loss of life; remitting, releasing, granting and donating to the property in and inhabitants of said county and to Hidalgo County all state ad valorem taxes levied or to be levied on property in said county, including the rolling stock of railroads and three-fourths of the state occupation taxes, for the years 1924 to 1948, both inclusive; providing that if any part of this Act be held unconstitutional it shall not affect any other part of this Act, and declaring an emergency."

H. B. No. 114, A bill to be entitled "An Act to aid Wharton County comprising one district and that portion of Matagorda County embraced in Commissioners' Precincts Numbers One, Two and Four as described in the minutes of the commissioners' court of said county, comprising another district for the remaining portion of the period of time covered by the release of taxes to said district as made by Chapter 48, Acts Thirty-eighth Legislature, First, Second and Third Called Sessions, page 102 to 105 (Senate Bill No. 54) by donating and appropriating to said districts all the state ad valorem taxes levied and collected in said districts for general state purposes on all property, both real and personal, in said districts for the purpose of creating a fund for the payment of interest upon and creating a sinking fund for that certain issue or issues of bonds that were voted and issued under the authority of Chapter 48, Acts Thirty-eighth Legislature, First, Second and Third Called Sessions, and declaring an emergency."

Respectfully submitted,  
**LOUISE SNOW PHINNEY,**  
Chief Clerk, House of Representatives.



**Message From the Governor.**

The Chair recognizes the Door-keeper, who introduced a messenger from the Governor with the following message:

Executive Office,  
Austin, Texas, Oct. 8, 1935.  
To the Members of the Forty-fourth Legislature (In First Called Session):

Without any criticism of your deliberations thus far, I appeal to you to hasten the people's business. You have now been in session 23 days and have but six working days left. Practically all of the momentous problems you were called to deal with remain unsolved.

Most of you have toiled diligently and faithfully. It is no easy matter, of course, to intelligently legislate concerning liquor, fee systems, old-age pensions and revenues in so short a time.

When this session was called, however, I submitted to you, in the order of their importance, urgent, emergency matters. We simply must get something done during this session about the first two matter submitted—the liquor and the substitution of salaries for the fee system.

The liquor traffic is at present totally unregulated. The State is losing tremendous revenues. There is no semblance of any orderly handling of the liquor traffic. All of us, both wets and drys, must concede that it will be nothing short of deplorable if this condition continues beyond the close of the session.

The Constitutional amendment substituting salaries for fees stipulated that enabling legislation must be passed at the first called session of the Legislature; and that such salaries must be made effective by January 1st following such session. If a salary law is not passed at this session, even if another should be called, unless a two-thirds vote is secured on final passage, thousands of fee officers throughout the State might be without compensation of any kind.

I think I have demonstrated that I want to be fair with the members of this Legislature. So far as possible, I have endeavored to give you a free hand. For almost three weeks I have refused to submit any measures of any kind. At no time have I submitted any controversial meas-

ures whatever other than those dealing with Constitutional amendments voted by the people.

Frankly, in view of the legislative jam that has developed, I will now be happy (and I am sure the people will also) if, at the end of this thirty-day session, you have passed a reasonable liquor control measure, a salary bill for fee officers and a real chain store tax. We must get loose from this legislative jam! This is no time for petty bickering or filibusters. The occasion demands patriotism of the highest type. After all, any measures enacted will necessarily be experimental and on trial.

Things can be worked out if politics are "tabooed," and all of us will work together.

If this Legislature will only pass a reasonable liquor regulation bill, a salary statute and a chain store tax bill, and it is then necessary, I will feel justified in immediately calling another session to provide old-age pensions.

I have heretofore held up a number of local bills, but they are of such supreme importance to particular localities that I feel compelled to submit them in a separate message. They are non-controversial and, I believe, can be passed at two night sessions.

I have discussed this with the Speaker and Lieutenant-Governor. They agree with me and state that, in their judgment, the two Houses would be happy to set aside two night sessions for these local matters.

I urge that, if necessary, we hold continued night sessions in order to certainly wind up liquor regulation, a salary system for fee officers and a chain store tax bill. This latter measure was incorporated in the State Democratic platform. It overwhelmingly passed the House, has been reported favorably by the Senate committee on State affairs and, in my judgment, should be disposed of once and for all.

Respectfully submitted,

JAMES V. ALLRED,  
Governor of Texas.

Read.

**S. C. R. No. 5.**

Senator Rawlings was recognized and stated that in view of the Governor's message he wished to move to reconsider the vote by which Senator Redditt's motion to suspend the rule on S. C. R. No. 5 failed.

**Point of Order.**

Senator Hornsby raised the point of order that Senator Rawlings motion was out of order as he had not voted on the prevailing side.

The Chair sustained the point of order.

**Senate Bill No. 23.**

Senator DeBerry called for a second reading of the motion by Senator Woodruff and the pending amendment.

The Chair stated that the 30-minute time for discussion of the motion had expired.

The question recurred on the pending amendment by Senator DeBerry.

The amendment was adopted by the following vote:

**Yeas—13.**

DeBerry.	Rawlings.
Holbrook.	Regan.
Hornsby.	Shivers.
Neal.	Small.
Nelson.	Van Zandt.
Oneal.	Woodruff.
Poage.	

**Nays—12.**

Blackert.	Martin.
Collie.	Redditt.
Cotten.	Sanderford.
Davis.	Stone.
Hill.	Sulak.
Isbell.	Westerfeld.

**Absent.**

Beck.	Hopkins.
Burns.	Pace.

**Absent—Excused.**

Fellbaum.	Moore.
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The question recurred on the adoption of the motion as amended.

Senator Sanderford was recognized to discuss the motion as amended.

**Points of Order.**

Senator Woodruff raised the point of order that the 30-minute time limit for discussion of the motion had expired.

Senator Sanderford had the floor on discussion of the point of order.

Senator Woodruff withdrew the point of order.

Senator Sanderford raised the point of order that the 30-minute time limit had not expired.

The Chair overruled the point of order.

Senator Collie asked unanimous consent that Senator Sanderford's time be extended.

There was objection.

**Personal Privilege.**

Senator Sanderford had the floor on the point of personal privilege.

Senator Nelson was recognized on a point of personal privilege.

Senator Sulak was recognized on a point of personal privilege.

**Point of Order.**

Senator Woodruff raised the point of order that the Senator was discussing the merits of the bill and not the subject of personal privilege.

The Chair asked Senator Sulak to confine his remarks to the subject of personal privilege.

The motion as amended was lost by the following vote:

**Yeas—14.**

Blackert.	Oneal.
DeBerry.	Pace.
Holbrook.	Poage.
Hornsby.	Regan.
Isbell.	Small.
Neal.	Van Zandt.
Nelson.	Woodruff.

**Nays—14.**

Beck.	Rawlings.
Burns.	Redditt.
Collie.	Sanderford.
Cotten.	Shivers.
Davis.	Stone.
Hill.	Sulak.
Martin.	Westerfeld.

**Absent.**

Hopkins.

**Absent—Excused.**

Fellbaum.	Moore.
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Senator Poage was recognized and sent up the following amendment:

Amend S. B. No. 23, Sec. 35, by striking out all of Section 35 and by

inserting in lieu thereof the following:

Section 35. For the purpose of creating a special fund in State Treasury of this State to be used for the payment of old age pensions and/or old age assistance and for the purpose of paying the pensions and benefits provided by this Act and for the further purpose of reducing the number of needy citizens over sixty-five years of age in this State, it is determined to be the policy of this State to abandon the State ad valorem tax and the present occupation taxes on the production of sulphur, oil and gas, to the extent hereinafter set out and no further, and to substitute therefor an occupation tax on all producers of sulphur, oil and gas in the amount of ten per cent of the value of all such minerals produced as hereinafter fully set out and levied.

Sec. 36. On and after January 1st, 1936, no State ad valorem tax shall be levied or collected for the benefit of the general revenue fund or for the benefit of the available free school fund, and on and after such date no ad valorem tax shall be levied or collected for State purposes, save and except a tax of seven cents on the one hundred dollars for the payment of Confederate pensions as heretofore provided by law; provided, however, that nothing herein shall be construed so as to prohibit the collection of any taxes that may have accrued prior to the first day of January, 1936, but all such taxes shall be and remain valid obligations collectible as now provided by law.

Sec. 37. Section 1 of Chapter 212, Acts of Forty-second Legislature, page 355, and Chapter 162, page 409 of the Acts of the Forty-third Legislature, as amended by Chapter 12, page 43 of the Acts of the First Called Session of the Forty-third Legislature, and Chapter 73, page 111, of the Acts of the Forty-second Legislature be and the same are hereby amended so as to read as follows:

"On and after the first day of January, 1936, every person or persons, corporation, partnership, individual, trustee, receiver, trust estate, executor, and/or administrator owning, controlling, managing, leasing, and/or operating any mine, well,

shaft, or other device whereby sulphur, and/or oil and/or gas is produced in any manner from the earth or waters in the State shall make monthly, on the 25th day of each and every calendar month of each year, a report to the State Comptroller of Public Accounts on such forms as the Comptroller shall prescribe, and sworn by such person before an officer authorized to administer oaths in the State, or if such person be other than a natural person, sworn to by its president, secretary or other duly authorized officer, which report shall show the total amount of sulphur, oil and gas produced within this State by said person during the calendar month next preceding, and at the time of making such report shall pay to the Treasurer of this State as an occupation tax for the month covered by said report, an amount equal to 10% of the market value of said sulphur, oil and gas, which market value shall be the actual market value thereof plus any bonus or premium or other thing of value paid therefor, or which said sulphur, and/or oil and/or gas does or will reasonably bring if produced in accordance with the laws, rules and regulations of the State of Texas.

Sec. 38. There is hereby levied an occupation tax on all producers, as said term is hereinafter defined, of 10% of the market value of all sulphur, and/or oil and/or of gas produced in this State as hereinabove set out. Said tax shall be computed upon the total number of tons of sulphur, and of barrels of oil, and of cubic feet of gas produced or salvaged from the earth or waters of this State, without any deductions, and said tax shall be a liability of the producer of any sulphur and/or oil and/or gas, and it shall be the duty of such person to keep accurate records of all such minerals produced, making monthly reports under oath, as hereinbefore provided. The purchaser of such minerals shall pay the tax afordescribed on all such minerals purchased and deduct the tax so paid from the payment due the producer or other interest holder, remitting such payments so deducted to the Comptroller of Public Accounts in legal tender or cashier's check payable to the Treasurer of this State, and when such purchaser shall have made such remittance and payment, the producer of such

minerals shall be relieved of paying the tax set out in Section 2 hereof to the extent of such payments, but no further, and it shall be the duty of such producer to secure from such purchaser a receipt from the Comptroller of Public Accounts for all of such payments and to attach same to the monthly report required in Section 2 hereof, and such purchaser shall be entitled to no greater deduction in said tax than the amount evidenced by such receipts so attached. Provided further, that if any sulphur and/or oil and/or gas produced is not sold within the calendar month in which it may be produced, then the producer thereof shall pay the entire tax thereon at the same rate and in the same manner as if such minerals had been sold; provided further, that unless such payment of tax on all of the aforementioned minerals produced during any month or fractional part thereof shall have been made on or before the 25th day of the month immediately following such payment, shall become delinquent and a penalty of 10 % of the amount of the tax shall be added, and such tax and penalty shall bear interest at the rate of 6 % per annum from the date due until paid. The tax hereby levied shall be borne rateably by all interested parties, including royalty interests; and producers and/or purchasers of the minerals aforementioned are hereby authorized and required to withhold from any payment due interested parties, the proportionate tax due.

Sec. 39. (1) Producers and/or purchasers of the aforementioned minerals shall keep in Texas a complete record of all such minerals produced and a record of all such minerals sold; reports shall be filed with the Comptroller monthly by producers and purchasers, not later than the 25th of each calendar month, showing the amount of minerals produced and the amount of minerals sold during the month preceding, upon forms furnished by the Comptroller.

(2) All railroads, barges, trucks and/or pipe lines, carrying or transporting such minerals for hire, for themselves or their owners shall keep in Texas a complete and accurate record of all minerals so handled by months, showing date received, number of tons, barrels, and cubic

feet, by whom received, point of delivery, to whom delivered and manner of transportation and such records shall be open to the inspection of the duly authorized agents of the Comptroller or the Attorney General at all times, and, if requested by the Comptroller, shall furnish information and reports of movements as often as required by the Comptroller.

Sec. 39. Purchasers buying any such minerals from properties in litigation or in receivership, bankruptcy, or any other legal proceedings, or covered by assignments, are required to deduct the amount of the taxes levied by this Act, before payment is made to the producers, trustees, assignees or to any person who claims ownership of said funds, or before the proceeds of said purchase of any such minerals is impounded or escrowed by said purchaser pending such litigation or tenure of assignments, and shall remit said tax deducted in the same manner as if said minerals had been purchased from any other source; and providing that said purchaser shall not be liable to any claimant of said funds on account of payment of said tax.

Sec. 40. (1) Monthly reports by producers shall be filed with the Comptroller upon such forms as may be designated by that officials, showing the total number of tons, barrels and cubic feet of any such minerals produced monthly, the name of the county from which produced, the name of the lease from which produced, the disposition made of such minerals if sold, the name and correct address of the purchaser, and if not sold, the location of storage, if owned by such operator, or if stored with a pipeline or a refinery, the correct name and address of such pipeline or refinery. All reports so made shall be duly sworn to by the producer or his authorized agent.

(2) Purchasers of any such minerals shall accompany the remittance for taxes deducted from settlements as provided herein, with a statement or report in a form to be prescribed by the Comptroller, showing complete information requested in such form, including name and address of producer from whom such minerals were purchased; name of the county from which such minerals were pro-

duced; name of the lease and the total amount purchased.

Sec. 41. For the occupation tax, penalties and interest herein provided for, the State shall have a prior and preferred lien on any leasehold interest, ownership of the mineral rights, or interest, including minerals produced and/or run owned by the person owing any tax therein; and in addition thereto such lien shall include equipment, tools, tanks, and all other implements used on said lease and/or premises from which such minerals are produced.

Sec. 42. It shall be the duty of the Attorney General to bring legal action for the collection of delinquent taxes herein levied, and any suit instituted for such purpose shall attach to any such minerals in storage, in transit, or being produced by such operator, and venue for such suits herein provided shall be in the District Court of Travis County, Texas.

Sec. 43. It shall be the duty of the Comptroller to promulgate rules and regulations governing the detail administration of the terms and requirements of this Act not specifically mentioned herein; to employ auditors or tax supervisors for the purpose of verifying reports and investigating the affairs of producers and/or purchasers to determine whether the tax is being properly reported and paid; to provide the necessary office help and equipment for the proper execution of the provisions of this Act, and for the purpose of defraying the necessary expense of said administration, including salaries of supervisors, auditors, office help, filing equipment, typewriters and supplies, printing of forms, publication of regulations, postage, telephone and telegraph, traveling expenses of employees, and traveling expenses of witnesses not otherwise paid; and that all of the sums heretofore appropriated for the fiscal years beginning on September 1, 1935, and September 1, 1936, for the enforcement of the present occupation tax on the production of sulphur, and the present occupation tax on the production of oil, and the present occupation tax on the production of natural gas, are hereby re-appropriated for the purpose of enforcing the provisions of this Act, provided that no salaries shall be

paid out of said re-appropriated funds in excess of the amount of the salaries heretofore provided.

Sec. 44. For the purposes of this Act, "producer" shall mean any person or persons, corporation, partnership, individual, trustees, receiver, trust estate, executor or administrator owning, controlling, managing, leasing or operating any mine and/or well in this State from which is produced sulphur, oil or gas, and shall also mean and include any person who produces in any manner any sulphur, oil or gas by taking it from the earth or waters in this State.

(2) "Purchaser" shall mean any individual, person or persons, partnership, corporation, refinery, pipeline, or agent purchasing any sulphur and/or crude oil and/or gas for any purpose or use within this State.

(3) "Carrier" shall mean the operator or owner of any means of transporting any sulphur, oil or gas or any instrumentality that may now be used or come into use for the purpose of effecting such transportation.

(4) "Sulphur" as used herein shall mean any sulphur, whether in liquid, molten or solid state, produced or taken from the earth or waters of this State.

(5) "Oil" as used herein shall mean petroleum oil, mineral oil, or other oil taken from the earth.

(6) "Gas" and "Natural Gas" as such terms are used herein shall mean and include any and all inflammable gases produced or taken from the earth or from any strata under the earth.

(7) "Reports" shall mean any reports required to be furnished in this Act or that may be required by the Comptroller in the administration of this Act.

(8) "Person" shall mean and include any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust as well as the trustees acting under such declarations of trust.

(9) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

(10) "Minerals" shall mean and include sulphur, oil and natural gas.

Sec. 45. The terms herein imposed and provided, when paid, shall

be and are hereby allocated as follows, to-wit:

All of the receipts from such tax shall be divided equally, as same are collected, between the general revenue fund of this State and the available free school fund of this State until the sum of Fifteen Million Dollars has been paid to each of such funds during each and every fiscal year; and after such sum of fifteen million dollars shall have been paid to each of such funds from the proceeds of such tax within any one fiscal year, all remaining proceeds of such tax shall be paid into a special fund in the State Treasury to be used for the payment of old age pensions and/or old age assistance.

Sec. 46. It is expressly declared to be the legislative intent that the several subdivisions of this Act are severable and should any section or sub-section of this Act be declared to be unconstitutional, it shall not affect the remaining provisions of this Act and the Legislature would have enacted such remaining provisions nevertheless, and they shall remain in full force and effect, save that it is further expressly provided that in event any of the tax hereby levied should for any reason be declared to be unconstitutional or void, then and in that event, it is the legislative intent that none of the statutes mentioned in Section \_\_\_\_ hereof would have been repealed, and the Legislature enacts this bill with the intention that, should any tax hereby levied be hereafter declared unconstitutional or void for any reason, the repeal provisions of Section \_\_\_\_ of this Act shall likewise be null and void.

Sec. 47. The fact that Constitution of Texas was recently amended by the vote of the people authorizes the Legislature to provide old age pension or assistance for the needy of this State over sixty-five years of age, and the fact that there are thousands of our citizens now in pressing need of such assistance, and the further fact that in order to secure the revenues necessary to pay such assistance the State is compelled to revise and reform its taxing system so as to make our vast natural resources have a fair share of the burden, creates an emergency and an imperative public necessity,

which requires that the Constitutional rule requiring bills to be read in each House on three separate days be suspended, and same is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

POAGE.

Laid on the table subject to call, by unanimous consent.

Senator Sanderford yielded to Senator Woodruff who received unanimous consent to send up the following bill:

#### Senate Bill No. 61.

By Senators Woodruff and Van Zandt:

S. B. No. 61, A bill to be entitled "An Act directing that the Commission of Control for the Texas Centennial be directed to pay the heirs and legatees of Thomas F. McKinney the sum of \$16,942.80 out of moneys appropriated for the Centennial by House Bill No. 11, Chapter 174, Acts of the Regular Session, 44th Legislature, and declaring an emergency."

Read and referred to the Committee on Finance.

#### Senate Bill No. 23.

Senator Redditt moved the adoption of the committee substitute to S. B. No. 23.

The committee substitute was adopted by viva voce vote.

Senator Sanderford sent up the following amendment to the committee substitute:

Amend Committee Substitute Senate Bill No. 23 by striking out all below the enacting clause and inserting in lieu thereof the following:

Be it enacted by the Legislature of the State of Texas:

Section 1. Creation of Fund.—There is hereby created a fund to be known and designated as "The Old Age Assistance Fund of the State of Texas" to be created, managed and disbursed as hereinafter set out in this Act.

Sec. 2. To Whom Granted.—(a) Subject to the limitations, restrictions and regulations contained in this Act and by law, each actual bona fide citizen of the State of Texas over the age of Sixty-five (65)

years shall be eligible to receive from the fund hereby created not to exceed the sum of Fifteen Dollars (\$15.00) per month.

(b) The amount of money now being received or hereafter received by any person otherwise entitled to Old Age Assistance under the terms of this Act, by virtue of any pension from the Federal, State or any foreign government (except benefits accruing under the Social Securities Act) shall be deducted from the benefits herein granted, and if such pension so received does not equal or exceed the benefits so granted, the difference between such grant of assistance under the terms of this Act and such pension so received shall be payable to such person.

(c) No habitual criminal, no habitual drunkard (while such habitual drunkard), no inmate of any State supported institution (while such an inmate) shall be eligible for such assistance.

(d) No person, regardless of age, shall be eligible to receive such Old Age Assistance unless and until such person has actually resided within the State of Texas for a period of not less than five (5) years during the nine (9) years immediately preceding the filing of his or her application for Old Age Assistance, as hereinafter provided, and until such applicant shall have continuously resided within this State for at least one year immediately preceding such application.

(e) The terms "residence" and "resided" as used in paragraph "d" of Section 2 of this Act shall denote actual physical presence within this State as distinguished from the words "domicile" and "residence" as used in their broader meaning.

### Sec. 3. Application Requirements.

—(a) Persons claiming such assistance under the terms of this Act shall make application for same in writing and under oath, and file the same with the County Clerk of his or her county. Such application shall contain the name, age, date of birth, residence of the applicant, mailing address and occupation; said application shall give the place, or places of residence of the applicant during the ten years immediately preceding the filing of the applica-

tion and the time of such residence, the name of the parents of the applicant, and if living, the place of residence of each. Such application shall be prepared in triplicate and all of said copies shall be filed with the county clerk.

(b) Upon the filing of said application, the County Clerk shall docket said cause in a bound book provided for that purpose, which shall be known as the "Old Age Assistance Docket." Upon filing of said application the County Clerk shall forthwith transmit one of the copies of such application to the County Judge of said County, who shall proceed to hear the same.

### Sec. 4. Hearing upon Application.

—(a) In the event that the County Judge is satisfied as to the correctness of the facts set forth in said application, and that said application meets the requirements of this Act, he shall endorse his approval on said application and note same upon the "Old Age Assistance Docket."

(b) In the event the County Judge is dissatisfied with the application, or the facts therein alleged, he shall set same for hearing and shall have authority to subpoena witnesses, to interrogate them, and to make such investigation as to said County Judge may seem proper.

Sec. 5. For the purpose of determining the age of an applicant for aid under this Act, consideration shall be given to any of the following documents:

- (a) Certificate of birth;
- (b) Certificate of baptism;
- (c) Statement of age as recorded on marriage license or certificate;
- (d) Statement of age of the applicant as recorded by the registrar of voters of this State, or any political subdivision thereof, at least five years prior to the date of such application as shown by the records of the department of elections of this State or any political subdivision thereof;

(e) Entries in the family Bible or other genealogical record or memorandum of the family of such applicant;

(f) The returns of the United States census taken at least five years prior to the date of such application;

(g) The affidavit of a reputable person if it is based upon his personal knowledge of facts which would determine the probable age of the applicant and is not merely a statement of belief based on applicant's personal appearance; such affidavit shall contain statements of the circumstances upon which said affiant's knowledge is based and same shall be submitted to the Director of Division of Public Welfare, and where such affidavit is deemed by said Director not to present satisfactory evidence of applicant's age the said Director may require a further affidavit of more conclusive proof; such an affidavit, however, shall not be accepted to establish proof of age until all reasonable efforts to produce more substantial documentary evidence of applicant's age have failed;

(h) Such other evidence as the Director of Division of Public Welfare may approve.

Sec. 6. Transmittal of Record.—Upon the approval of such application by the County Judge as herein set out, the County Clerk shall transmit said application, together with the approval of the County Judge, to the Director of Division of Public Welfare, at Austin, Texas. A certificate of the Clerk shall accompany said application and order or approval, and said certificate shall set forth all facts necessary to show that said application is authentic and has been duly approved by the County Judge.

Sec. 7. (a) In the event that any application so filed and presented to the County Judge is disapproved and rejected by the County Judge, such applicant shall be entitled to and shall have an opportunity to present his application as an appeal to the Director of Division of Public Welfare, who shall give a full and fair hearing to such applicant, and in the event such Director finds that the County Judge has erred in his conclusions, then such application shall stand approved, and shall be placed upon the rolls of those entitled to Old Age Assistance, as hereinafter provided. And the Director of Division of Public Welfare shall have the power and authority to reject any application certified to him, if in his judgment the County Judge has erred in his approval.

(b) In counties where the officers thereof are paid by fees of office, the County Clerk and County Judge shall be entitled to receive the sum of One Dollar (\$1.00) each, payable out of the Third Class Fund of the County, for his services in filing and docketing said application, and passing thereon, and in transmitting same to the Director, and no other fee shall be charged by said Clerk and Judge for services required herein.

Sec. 8. Receipt, Filing and Approval of Application.—Upon receipt of the application, order of approval and certificate, as required in Section 6 of this Act, the Director of Division of Public Welfare shall carefully examine the same and if found to be correct and in compliance with law he shall file the same, approve the application, and place the name of such applicant upon the Roll of those entitled to Old Age Assistance, as provided in this Act. In the event the Director finds that said application is defective in any respect, or fails to meet the requirements of the law, such application, order of approval and certificate shall be returned to the County Clerk transmitting the same. A letter shall accompany such application, order and certificate, setting forth wherein same fails to meet such requirements, and same shall be subject to amendment and correction. A copy of such letter shall be sent by the Director to the applicant at the address shown in such application.

Sec. 9. Time of Payment.—The payments herein provided for Old Age Assistance shall be made monthly.

Sec. 10. Determination and Allocation.—(a) The amount of money in the Old Age Assistance Fund accumulated as by law provided, shall be determined by the Comptroller of Public Accounts and said determination credited by the Comptroller to the Director as of the First day of April, 1936, and as of the first day of each month thereafter. If such amount be sufficient to pay each and every person whose name appears upon the Roll for Old Age Assistance a sum equal to Fifteen Dollars (\$15.00) per month a warrant shall be issued to such person for said amount in the manner hereinafter



provided. In the event said Fund is insufficient to pay the full sum of Fifteen Dollars (\$15.00) per month, as above set forth, then the amount of money to the credit of said Fund for each month as of the first day of each month thereafter, shall be distributed to the persons whose names appear on said roll on a pro rata basis.

(b) The rights to payments from said Fund shall be determined either as of January 1, 1936, or of the first day of the month of the placing of the name of the applicant on the Roll, whichever date is the later. Provided, however, that Old Age Assistance payments herein provided for shall date from the making of application therefor, if it shall be shown that on said date the applicant was entitled, under the provisions hereof, to receive said payments.

(c) The Director shall, on the 15th day of March make a report to the Comptroller of the names of all applications granted for the month of January, and on the 15th day of each month thereafter of all applications granted on file the first day of the next succeeding month to the one for which payment has been made, setting forth the name and postoffice address of each person entitled to assistance under the terms of this Act, together with the amount due to each such person for the month ending on the last day of the preceding month. This list so prepared shall be certified to by the Director and the correctness thereof shall be sworn to by the person who actually supervises the preparation of such list.

(d) Upon receipt of the certified list provided for under paragraph "c" of this Section, the Comptroller shall immediately draw warrants on the Treasury of the State of Texas against the Old Age Assistance Fund. When same have been prepared, signed and registered, such warrants shall be delivered by the Comptroller to the Director, who shall verify the same, and mail the warrants to the respective payees at the address disclosed by the records in the office of the Director.

Sec. 11. Incompetence of Claimant.—If it shall come to the attention of the Director, upon the testi-

mony of credible or reputable witness or witnesses, that any person receiving Assistance is incompetent to take care of himself, or his money, the Director may direct the payment of such installment to be made to any responsible person or corporation, for his benefit, provided the persons or corporation to whom such payment is made shall be designated with the advice and consent of the County Judge of the County in which such incompetent person may reside.

Sec. 12. If, at any time, the Director, or his assistants, shall have reason to believe, by reason of complaint or otherwise, that Old Age Assistance has been improperly granted, he shall cause an investigation to be made, and if it appears, or if the Director has reason to believe as a result of such investigation that the Assistance was improperly granted, all payments shall temporarily cease. Such person so receiving Assistance which has been the subject of an investigation, as herein provided, shall be given notice of the temporary suspension of payments, and shall be given an opportunity to show cause why same should not be permanently discontinued. If, upon hearing, the Director shall conclude that aid was improperly granted to such person, future payments shall be forfeited and the name of such person shall be stricken from the Roll by the Director.

Sec. 13. Assistance Payments not Subject to Debts.—Assistance payments under this Act shall not be assignable, and shall not be subject to garnishment or any other legal writ.

Sec. 14. Fraud in Procuring.—Any person who, by means of any wilfully false statement, representation, or by impersonation, or other fraudulent device, obtains or attempts to obtain, or any person who aids and abets any person to obtain Assistance to which he is not entitled, shall be guilty of a felony, and on conviction shall be confined in the State Penitentiary for a term of not less than two nor more than five years.

Sec. 15. Any person convicted of the offense defined under Section 14 of this Act shall be perpetually

barred from participating in any future disbursement of the funds herein created.

Sec. 16. State-wide Application.—This Act shall be a General Law, and shall apply alike to each and every political subdivision of this State.

Sec. 17. State Shall Participate.—The State shall financially participate in the raising of the Fund as herein provided.

Sec. 18. Administration.—This law for Old Age Assistance shall be administered by the Board of Control through the Director of the Division of Public Welfare, who shall administer this law and supervise its enforcement.

Sec. 19. Reports to Social Security Board.—It shall be the duty of the Director to make such reports as shall be required by the Social Security Board of the United States, same to be in such form and contain such information as said Board may from time to time require; and said Director shall, from time to time, comply with such requirements as may be made by said Board not inconsistent with this Act as said Board may find necessary to insure correctness and verification of the reports made to such Board.

Sec. 20. Disposition of Estate Taxes.—Any sums of money collected by the State of Texas, or political subdivision thereof, from the estate of any recipient of Old Age Assistance under the terms of this Act with respect to Old Age Assistance furnished under this plan shall be divided after the net amount thereof has been determined, and one-half thereof shall be paid promptly to the United States, and be deposited in the United States Treasury, the remaining amount shall be deposited with the Treasurer of the State of Texas, to the credit of the Old Age Assistance Fund herein created.

Sec. 21. Acceptance of Federal Aid.—The State of Texas hereby accepts the provisions and benefits of the "Social Security Act" enacted by the Congress of the United States, and the Director of the Division of Public Welfare shall be and he is hereby authorized to accept such grants of Federal funds for the purpose of this Act as shall be granted to the State of Texas by the Fed-

eral Government and/or the Congress of the United States.

Sec. 22. Federal grants to be in addition to the funds herein granted.—The payments herein made under the terms and limitations set forth in this Act shall not be dependent upon any grant made to the State of Texas by the Federal Government for Old Age Assistance under the Social Securities Act, but same shall be in addition and supplemental to such grants. The Director shall administer such Federal grants, if any, allotted to the State of Texas by reason of this Act under such rules and regulations as the Social Security Board may promulgate, and in conformity with this Act.

Sec. 23. The Board of Control shall administer this law through an additional Division thereof, to be known as the Division of Public Welfare of the Board of Control.

Sec. 24. The Board of Control shall appoint a Director of the Division of Public Welfare.

Sec. 25. Term of Office.—The term of office of such Director shall commence on January 1, 1936, and expire on December 31, 1937. The Board of Control shall make appointment of a successor immediately each succeeding two years, or to fill any vacancy that may arise in said office.

Sec. 26. Oath and Bond.—Within ten days after notice of his appointment, and before assuming the duties of his office, said Director shall take the oath of office provided by the Constitution of this State, and shall give bond payable to the State of Texas in the sum of Ten Thousand Dollars (\$10,000.00), to be approved by the Board of Control. Said bond shall be made by a Surety Company, as surety, and be conditioned upon the faithful discharge of duty. The premium upon said bond shall be paid out of the Old Age Assistance Fund herein created, upon warrants drawn by the Comptroller upon the Treasury, upon the order of the Board of Control. The bond shall be approved by the Attorney General as to form, and the Surety Company shall be approved by the State Auditor as to solvency.

Sec. 27. Qualifications.—Such Director shall be not less than thirty-

five (35) years of age at the date of his appointment. He shall be a resident citizen of the State of Texas and shall have resided within the State for at least ten (10) years consecutively next preceding the date of his appointment, and he shall not be the occupant of any state office at the time of his appointment, nor have occupied any state office during the six (6) months next preceding the date of said appointment.

Sec. 28. Compensation of Director.—The Director shall receive as compensation the sum of Four Thousand Eight Hundred Dollars (\$4,800.00) per annum, payable in twelve (12) equal installments. The salary and compensation of the Director, his deputies and assistants, as well as necessary traveling and other expenses, shall be paid from the Fund hereby created, but in no event shall the total expense of the administration of this law exceed one (1%) per centum of the fund so administered by the Director for the purpose of old Age Assistance.

Sec. 29. Deputy Director.—The Director may appoint a competent Deputy Director to be known and designated as "Chief Deputy Director," who shall possess all the powers and perform all the duties attached by law to the office of Director during the necessary or unavoidable absence of the Director, or his inability from any cause to act. The Deputy Director shall possess all the qualifications of the Director.

The Director shall be responsible for the acts of his Chief Deputy who shall, before entering upon the duties of position, take the oath required of the Director. He shall also be required by the Director to enter into bond, with security payable to the Director, conditioned on the faithful performance of the duties of his office. The amount of the bond so furnished shall be determined by the Director and the premium therefor shall be paid as an expense of administering this law.

Sec. 30. Compensation of Chief Deputy Director.—The Chief Deputy Director shall receive as compensation the sum of Four Thousand Dollars (\$4,000.00) per annum, payable in the same manner as the com-

pensation for the Director.

Sec. 31. Other Employees.—The Director shall have the authority to appoint such other deputies, assistants, and clerical employees as may be necessary under the provisions of this Act, and within the discretion of such Director. He may require such bonds of his employees provided by statute as will insure the faithful discharge of their respective duties. The Director shall be responsible for all of the acts of each of his employees in the manner as he is responsible for the acts of his Chief Deputy.

Sec. 32. Compensation of Employees.—The compensation to be paid to the employees in the Director's office shall be set by the Director, subject to the following limitations.

(a) No Deputy Director, except the Chief Deputy, shall receive a salary in excess of Three Thousand Dollars (\$3,000.00) per year, and only three such deputies shall receive as much as Three Thousand Dollars (\$3,000.00), within the discretion of the Director. All other deputies, if same are necessary for the adequate administration of this law, shall receive a salary to be set by the Director not to exceed Twenty-four Hundred Dollars (\$2400.00) per year, and clerks not to exceed Twelve Hundred Dollars (\$1200.00) a year, and stenographers not to exceed Fifteen Hundred Dollars (\$1500.00) a year.

Sec. 33. Reports of the Director.—The Director, within ninety (90) days after the close of each fiscal year, shall make a report to the Board of Control and the Legislature for the preceding year, setting out the following:

1. The name and position of each employee, and the salary paid to such employee.
2. The total number of persons receiving Old Age Assistance under the terms of this Act.
3. The amount paid per person during the year.
4. The total number of applications for Assistance received.
5. The total number of applications granted.
6. The total number of applications denied.
7. The total number cancelled during the year.

8. The amount of money allocated to the individual under the terms of this Act for each month of the year preceding.

9. Any other pertinent information applicable to the administration of this law which, in the opinion of the Director, should receive the attention of the Board of Control and the Legislature.

10. The Director is empowered to make such rules and regulations as he may deem best for the purpose of properly identifying all applicants for Old Age Assistance, including fingerprinting, at the time of making said application.

11. Said report shall also contain the recommendations of the Director as to such changes and amendments as should be made in this law.

**Sec. 34. Imposition of the Tax.**—For the purpose of creating an Old Age Assistance Fund in the State of Texas, and for paying the benefits provided for in this Act, there is hereby levied upon and there shall be collected from all persons engaged in the business of making sales at retail, as herein defined, an annual tax for the privilege of engaging in such business equal to three per cent (3%) of the gross receipts thereof, less deductions allowed in Section 38 of this Act.

**Sec. 35.** Any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation or profession not taxable under this Act shall keep books to show separately the transactions used in determining the tax herein levied. In the event such person fails to keep such separate books, there shall be levied upon him a tax based upon the entire gross receipts of both, or all of his business.

**Sec. 36.** The tax hereby imposed shall be payable from and after January 1, 1936, as herein provided.

**Sec. 37.** Licenses required for tax purposes.—If any person, after the first day of January, 1936, shall engage in or conduct any business for which an occupation tax is imposed by this Act, he shall under such rules and regulations as the Comptroller of Public Accounts shall prescribe apply for and obtain from

such Comptroller, upon the payment of a registration fee of One Dollar (\$1.00), a license to engage in and to conduct such business for the current tax year, and he shall thereby be duly licensed to engage in and conduct such business. Said license shall expire on the last day of the tax year next succeeding the date of its issuance, and shall be renewed annually upon the condition that the taxpayer shall pay the aforesaid registration fee and the tax accrued to the fund under the provisions of this Act. No person shall engage in, or continue any business taxable hereunder without securing a license. Said license fees so collected shall be a part of the "Old Age Assistance Fund" herein created.

**Sec. 38. Deductions.**—(a) In computing the amount of tax levied under the provisions of this Act for any year, the taxpayer may deduct from the gross receipts taxable under this Act the sum of Five Hundred Dollars (\$500.00). Every person exercising any privilege taxable hereunder for any fractional part of the tax year shall be entitled to a deduction of that part of the sum of Five Hundred Dollars (\$500.00) which bears the same proportion to the total sum of Five Hundred Dollars (\$500.00) that the period of time during which such person is engaged in such business bears to the entire year. Upon filing monthly returns provided for in this Act, a twelfth part of the deduction granted in this Section may be claimed and deducted on such returns.

(b) No person subject to a tax under this Act need include in the amount of his gross receipts used for the computation of the tax any proceeds of his business derived from sales to the United States, the State of Texas, its departments or institutions, or any of its subdivisions, or any proceeds of his business which are exempt from taxation by reason of the provisions of the Constitution of the United States, or the Constitution of Texas.

**Sec. 39. Additional Tax.**—The tax imposed by this Act shall be in addition to all other license fees and levied by law as a condition precedent to engaging in or conducting any business taxable hereunder, except as is in this Act otherwise specifically provided, and this Act

shall not be construed as repealing any existing tax law.

Sec. 40. The tax hereby imposed shall be collected by the retailer from the consumer in so far as same can be done.

Sec. 41. It shall be unlawful for any retailer to advertise or hold out or state to the public or any consumer, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed Two Hundred Dollars (\$200.00).

Sec. 42. Any retailer convicted of violating the provisions of Section 41 of this Act shall forfeit his license procured under the terms hereof.

Sec. 43. Monthly return; computation of tax payment.—The taxes levied hereunder shall be a personal obligation of the retail taxpayer and shall be due and payable in monthly installments, on or before the fifteenth day of the month next succeeding the month in which the tax accrued. The taxpayer shall, on or before the fifteenth day of each month, make out a return for the preceding month in the form required by the Comptroller of Public Accounts of the tax for which he is liable, and he shall mail the return, together with a remittance for the amount of the tax, to the office of the Comptroller. Such monthly return shall be signed by the taxpayer or his duly authorized agent.

Sec. 44. Any person taxable under this Act, doing business wholly or partly on a credit basis, may make application to the Comptroller for permission to prepare his returns on the basis of cash actually received. Such application shall be granted by the Comptroller under such rules and regulations as the Comptroller may prescribe. When such application is granted, the taxpayer shall thereafter until further order of the Comptroller include in each return all cash received during the month preceding, and shall pay taxes on the basis of such cash receipts at the time of filing such return.

Sec. 45. Annual return; payment

of tax after end of tax year.—On or before thirty days after the end of the tax year each person liable for the payment of a tax under this Act shall make an annual return in the form required by the Comptroller, showing the total gross proceeds of his business for the preceding tax year, and showing the amount of tax payable by him under this Act, and, after deducting the amount of the monthly payments made during such tax year, he shall transmit the return to the Comptroller, with his remittance covering the residue, if any, of the tax payable by him for the preceding tax year. Such return shall be verified by the oath of the taxpayer, or his duly authorized agent. The Comptroller, for good cause shown, may extend the time for making the annual return on the application of any taxpayer. The Comptroller shall, on application of any taxpayer, permit him to use as the tax year for the purpose of this Act the fiscal year used in the ordinary course of his business instead of the fiscal year of the State of Texas.

Sec. 46. Consolidated returns.—Any person engaging in two or more places in the same business or business of like character taxable under this Act, shall file a consolidated return covering all such activities engaged in within this State and shall be entitled to deduct one exemption only in the amount of Five Hundred Dollars (\$500.00), as allowed in Section 39.

Sec. 47. Examination of returns; Determination of tax; Deficiency assessments.—As soon as practicable after each return is filed the Comptroller shall examine it. If it then appears that the correct amount of tax is greater or less than that shown in the return, the tax shall be recomputed and the correct tax determined. If the amount paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid with interest at four per centum per annum shall be credited against a subsequent tax or shall be refunded if requested by the taxpayer.

Sec. 48. If the amount paid is less than the amount which should have been paid, the deficiency, together with interest thereon at the rate of one-half of one per cent per month from the time the tax was due,

shall become due and payable after notice and hearing as herein provided.

Sec. 49. If any part of the deficiency is due to negligent or intentional disregard of this Act, or of authorized rules and regulations of the Comptroller, but without intent to defraud, there shall be added as a penalty ten per cent of the total amount of the deficiency in the tax, and interest shall be collected at the rate of one per cent per month on the amount of such deficiency in the tax from the time it was due, which interest and penalty shall become due and payable after notice and hearing as hereinafter provided.

Sec. 50. If any part of the deficiency is due to a fraudulent intent to evade the tax, then there shall be added as a penalty one hundred per cent of such deficiency and, in such a case, the whole amount of tax unpaid, together with the penalty, shall become due and payable after notice and hearing as hereinafter provided, and an additional one per cent per month on the tax shall be added from the date such tax was due until paid.

Sec. 51. Whenever notice is required under the provisions of this Act, such notice shall be given either by personal service or by registered mail addressed to the last known address of the taxpayer.

Section 53. No deficiency, interest or penalty shall be assessed for any year after the expiration of three years from the date set for the filing of the annual return for such year.

Sec. 53. Remittances.—All remittances of taxes imposed by this Act shall be made to the Comptroller by bank draft, check, cashier's check, money order, certificate of deposit or money. The Comptroller shall issue his receipt, and shall forthwith deposit all moneys received in the State Treasury, where it shall be credited as in this Act provided; provided that no remittance other than cash shall be a final discharge of liability for the tax herein assessed and levied unless and until it has been paid in cash.

Sec. 54. Failure to make return.—If any person fail or refuse to file a return, the Comptroller shall proceed to assess the tax against such person and shall notify him of the amount thereof. Such tax shall be-

come due and payable after notice and hearing as hereinafter provided.

Sec. 55. As soon as possible after procuring such information, the Comptroller shall proceed to assess the tax against such person, and shall notify him of the amount thereof. Such tax shall become due and payable after notice and hearing as hereinafter provided.

Sec. 56. In case of failure to file any return required by this Act, within the time prescribed by this Act, or prescribed by the Comptroller in pursuance of the provisions of this Act, twenty-five per cent of the tax shall be added as a penalty; Provided, That when a return is filed after such time and it is shown that the failure to file was due to reasonable cause, and not due to willful neglect, no such addition shall be made to the tax. The amount so added shall be collected as a part of the tax.

Sec. 57. Tax debt due State; Collection.—(a) If the tax imposed by this Act is not paid on the date the same is required to be paid under the provisions of this Act, the Comptroller, or some person designated by him, may cause a demand to be made on the taxpayer for the payment thereof. If such tax remains unpaid for ten days after such demand has been made and no proceedings have been taken to review the same, the Comptroller may issue a warrant under the official seal of his office, directed to the sheriff of any county of the State, or to any State officer authorized to serve process, commanding said sheriff or other officer to levy upon and sell the property of the taxpayer, used in connection with the business for the privilege of doing which the tax is levied, found within his jurisdiction, for the payment of the amount thereof with the added penalties, interest and the cost of executing the warrant. Such warrant shall be returned to the Comptroller, together with the money collected by virtue thereof within the time therein specified, which shall not be less than twenty (20) nor more than ninety (90) days from the date of the warrant. The sheriff or other officer to whom such warrant shall be directed shall proceed upon the same in all respects and with like effect and in the same manner as prescribed by

law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. The State of Texas, through the Comptroller, or some officer or agent designated by him, is hereby authorized to bid for and purchase any property sold under the provisions hereof.

Sec. 58. In addition to the mode of collection provided herein, the Comptroller and/or the Attorney General may bring an action at law in the county in which the business or any part thereof is carried on, to collect and recover the amount of taxes, interest and/or penalties due from any taxpayer.

Sec. 59. Tax lien; Sale of business.—The tax and any interest or penalties imposed by this Act shall be a lien upon the property of the taxpayer used in connection with the business for the privilege of doing which the tax is imposed. If any person liable for a tax levied hereunder shall sell out his business or stock of goods, or shall quit the business, such person shall make a final return within fifteen (15) days after the date of selling or quitting business. His successor, if any, shall be required to withhold sufficient of the purchase money to cover the amount of such taxes and interest or penalties due and unpaid until such time as the former owner shall produce a receipt from the Comptroller showing that they have been paid, or a certificate stating that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, he shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by the former owner.

Sec. 60. Jeopardy assessment.—If the Comptroller finds that a person liable for tax under any provisions of this Act designs quickly to depart from the State, or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings be brought without delay, the Comptroller shall cause notice of such

findings to be given such person, together with a demand for an immediate return and immediate payment of such tax. Thereupon such tax shall become immediately due and payable. If such person (1) is not in default in making any return or paying any tax prescribed by this Act, and (2) furnishes evidence satisfactory to the Comptroller under regulations to be prescribed by the Comptroller, that he will duly return and pay the tax to which the Comptroller's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment.

Sec. 61. Corporation; Dissolution; Withdrawal.—The Secretary of State shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this State, or organized under the laws of another State, and admitted to do business in this State, until the receipt of a notice from the Comptroller to the effect that all taxes levied under this Act against any such corporation have been paid, or until he shall be notified by the Comptroller that the applicant is not indebted for any taxes levied hereunder.

Sec. 62. Failure to obtain license or pay tax; Injunction.—Any person against whom a tax shall be assessed as herein provided may be restrained and enjoined by proper proceedings instituted in the name of the State of Texas, brought by the Attorney General at the request of the Comptroller, from engaging and/or continuing a business for which a privilege tax is required by the provisions of this Act, until such tax shall have been paid, and/or license secured, and until such person shall have complied with the provisions of this Act. Venue for such suits shall be fixed in Travis County, or in the county in which the taxpayer resides.

Sec. 63. Records and special returns.—Every person liable to any tax imposed by this Act, shall keep such records, render oath to such statements, make such returns, and comply with such rules and regulations as the Comptroller may from time to time prescribe. Whenever in the judgment of the Comptroller it is necessary, he may require any person by notice served upon him, to make a return, render under oath

such statements, or keep such records, as the Comptroller deems sufficient to show whether or not such person is lable to tax under this Act.

Sec. 64. Comptroller, deputies, or employees may subpoena witnesses. —The Comptroller may himself, or by his duly appointed deputies and agents, examine the books, records and papers of any person subject to taxation under this Act. The Comptroller, or any of his deputies or agents, may issue a subpoena requiring any person to appear before him to be examined with reference to any matter within the scope of the inquiry or investigation being conducted by such Comptroller, or his deputy, and to produce any books, records or papers pertaining thereto. The Comptroller, or any deputy, may administer an oath to any witness concerning any matter before the Comptroller. In case of disobedience of a subpoena the Comptroller, or his deputy, may invoke the aid of any district court in the State of Texas in requiring the attendance and testimony of witnesses, and the production of books, papers and documents. Any of the district courts of this State, in case of refusal to obey a subpoena, may issue an order requiring such person to appear before said Comptroller, or deputy, and produce books and papers, if so ordered, and any evidence touching the matter in question, and any failure to obey such order of the court may be punished by said court as in contempt thereof.

Sec. 65. Testimony; Immunity.—No person shall be excused from testifying or from producing any books, papers, records or memoranda in any investigation, or upon any hearing, when ordered to do so by the Comptroller upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him, or subject him to a criminal penalty; but no person shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the Comptroller, or his agent. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Sec. 66. The Comptroller shall publish annually a report containing his rulings and orders, and said report shall include such statistical information of a general character as may be deemed of general interest. Unless, in accordance with a judicial order, the Comptroller, his agents or employees, or former Comptroller, his agents or employees, shall not divulge any facts or information obtained in connection with the administration of that portion of this Act pertaining to the tax herein levied, and all reports filed by the taxpayer shall be considered and deemed privileged and confidential information.

Sec. 67. Appeal; Correction of Assessment; Injunction.—If the Comptroller, after examining the returns of any taxpayer, determines that the taxpayer is indebted to the State by reason of a deficiency accompanying such writ, the Comptroller shall give such taxpayer notice of the intention to levy such deficiency. Such taxpayer may, if he so desires, and serves notice thereof upon the Comptroller within twenty (20) days, demand a hearing on the question of the levy of such deficiency. Thereupon, the Comptroller shall set a time and place for hearing and shall give the taxpayer reasonable notice thereof.

Sec. 68. The taxpayer shall be entitled to appear before the Comptroller and be represented by counsel, and present testimony and argument. After the hearing, the Comptroller shall render his decision in writing and by order levy any deficiency found by him to be due and payable.

Sec. 69. If any taxpayer is aggrieved by any decision of the Comptroller, he shall be required to pay the amount of the taxes, interest and penalties found to be due by the Comptroller, and shall be permitted to bring an action in the district court in the county in which the business for the privilege of doing which the tax is levied is carried on, to recover the amount of the taxes alleged to have been unlawfully levied upon him. Such action shall be conducted in accordance with the statutes and rules of procedure now applicable to civil suits in the State of Texas. The taxes paid by such aggrieved tax-



payer on such deficiency shall be deposited with the State Treasurer in the "Suspense Account" and shall be so held by the Treasurer pending the final determination of said suit.

Sec. 70. Any action brought under the preceding Section shall be against the State of Texas, and citation shall issue thereon to the Comptroller, and to the County Attorney of the County in which said suit is brought.

Sec. 71. In the event any taxpayer is found entitled to recover any sums paid pursuant to the orders of the Comptroller as hereinbefore provided, such sums shall be paid from the Suspense Account upon the warrant of the Comptroller.

Sec. 72. No injunction shall issue to stay proceedings for assessment or collection of any taxes levied under this Act.

Sec. 73. Offenses; Penalties.—It shall be unlawful for any person to refuse to make the return required by this Act, or to make any false or fraudulent return, or any false statement in any return, with intent to defraud the State, or to avoid the payment of the tax, or any part thereof, imposed by this Act, or for any person to aid or abet another in any act to evade payment of the tax, or any part thereof, imposed by this Act, or for the president, vice-president, secretary, treasurer, or any officer or employee of any company to make or permit to be made for any company, corporation or association any false return, or any false statement in any return required in this Act, with the intention to evade the payment of any tax hereunder.

Persons violating any of the provisions of this Act shall be guilty of a felony and on conviction thereof shall be imprisoned in the State Penitentiary for a period of not less than one nor more than five years. In addition to the foregoing penalty, any person who shall knowingly swear to or verify any false or fraudulent statement with the intent aforesaid, shall be guilty of the offense of false swearing, and on conviction thereof shall be punished in the manner provided by law.

Sec. 74. Any person who shall engage in any business in this State which is taxable under this Act, and

who fails to secure from the Comptroller a license to engage in such business after a license to do so shall have expired, or shall have been suspended by the Comptroller with the intent to defraud the State, shall be guilty of a misdemeanor, and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than one year, or by both fine and imprisonment.

Sec. 75. The Comptroller shall have the power, after a hearing, to suspend the license of any person who shall violate or fail to comply with any provisions of this Act, or any rule or regulation promulgated by the Comptroller pursuant to the provisions of this Act. The Comptroller shall have power to restore licenses after suspension. If any person shall engage in business taxable under this Act while his license is in suspense, the tax imposed with respect thereto shall nevertheless be imposed and be payable with respect to such business. Any person whose license has been revoked as herein provided shall have the right to appeal from the ruling of the Comptroller by an appeal to the District Court. Venue for such appeals shall be fixed in Travis County, Texas.

Sec. 77. The sums of money received and collected under the provisions of this Act shall be deposited by the Comptroller in the State Treasury to the credit of the Old Age Assistance Fund hereby authorized to be set up for said purpose.

The following amounts are hereby appropriated from said fund for the specific uses and purposes set forth, as follows:

1. To the Director of Division of Public Welfare for the fiscal years ending August 31, 1936, and August 31, 1937, the amount necessary to defray the expenses of administering this Act, not to exceed one per cent of the total revenues derived under the provisions of this Act.

2. A sufficient sum of money to pay the Old Age Assistance Compensation as provided for under the terms of this Act for the fiscal years ending August 31, 1936, and August 31, 1937.

3. Any sums remaining after payment of the above appropriation

shall remain to the credit of said fund.

Sec. 78. There is hereby appropriated from the General Fund of the State of Texas the sum of Fifty Thousand Dollars (\$50,000.00), same to be used by the Director of Division of Public Welfare in setting up machinery necessary to the installation and operation of said division and to pay salaries of the said director and his employees under the restrictions set out in this Act. As such time as said Fifty Thousand Dollars (\$50,000.00) becomes available from the one per centum of the tax herein appropriated, same shall be repaid to the General Fund from the Old Age Assistance Fund hereby created.

Sec. 79. Definitions. That when used in the tax sections of this Act, the following definitions shall be applied:

(a) The term "person" includes any individual, firm, co-partnership, joint adventure, association, corporation, company, estate, trust, or any other group or combination acting as a unit, and the plural, as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) The term "sale at retail" means any transaction by which is transferred for a consideration the ownership of tangible personal property when such transfer is made in the ordinary course of the transferor's business and is made to the transferee for consumption or use, or for any other purpose than for resale in the form of tangible personal property. The term "sale at retail" includes conditional sales, installment lease sales, and any other transfer of such property when the title is retained as security for the purchase price but is intended to be transferred later.

(c) The term "sale at retail" shall not include an isolated transaction in which any tangible property is sold, transferred, offered for sale, or delivered by the owner thereof, or by his representative for the owner's account, such sale, transfer or offer for sale, or delivery, not being made in the ordinary course of repeated and successive transactions of a like character by such owner, or on his account by such representative.

(d) The term "sale at retail" includes the sale of electricity for light, heat and power, the sale of tickets or the right of admission to any place operated and maintained for amusement purposes, tolls and rentals charged by telegraph and telephone companies, and the sale of natural and artificial gas when made to the consumer or user for the consumption of use, rather than for resale.

(e) The term "gross receipts" means the amount received in money, credits, property or other thing of value in consideration of sale at retail within this State, without any deduction on account of the cost of the property sold, the cost of materials used, the cost of labor or services purchased, amounts paid for interest or discounts, or any other expense whatsoever, nor shall any deduction be allowed for losses, credits or refunds. The sale price of returned goods may be deducted.

(f) The term "business" includes all activities engaged in by any person, or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(g) The term "tax year" or "taxable year" means the fiscal year of the State of Texas, or the taxpayers' fiscal year, when permission is obtained by him from the Comptroller to use his fiscal year as the tax period in lieu thereof.

(h) The word "taxpayer" means any person liable for any tax hereunder.

(i) The word "tax" shall include all taxes, interest or penalties levied under this Act.

(j) The term "Comptroller" when used in this Act means "The Comptroller of Public Accounts of the State of Texas."

(k) The term "Director" when used in this Act means "Director of Division of Public Welfare."

Sec. 80. The Director and Comptroller shall have the authority to prepare such forms as may be necessary for the administration of this Act, and to promulgate rules and regulations, not inconsistent with the provisions hereof for the purpose of placing same into effect.

Sec. 81. Each Section of this Act, and each sub-section, sentence, clause and phrase is hereby declared to be independently operative, and if

any section, sub-section, sentence, clause or phrase of this Act shall be declared invalid by any court of competent jurisdiction, it shall not affect or invalidate the remainder of this Act.

Sec. 82. The fact that the citizens of Texas by their recent overwhelming vote have expressed their desire to give the citizens of this State past the age of 65 years the assistance herein granted, and the further fact that there are many citizens who are over the age of 65 years and who are unemployed and do not have sufficient funds to buy the actual necessities of life, and they are in actual need at this time, creates an emergency and an imperative public necessity, demanding the suspension of the constitutional rule requiring bills to be read on three separate days in each house, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

**SANDERFORD.**

Read.

**Motion to Adjourn.**

Senator Hill, at 4:59 o'clock p. m., moved that the Senate adjourn until 10:00 o'clock a. m. Wednesday.

Motion pending.

Senator Hill yielded to Senator Beck who received unanimous consent to take up out of regular order:

**Senate Bill No. 41.**

The Chair laid before the Senate on its second reading the following bill:

By Senator Beck:

S. B. No. 41, A bill to be entitled "An Act to amend Section 5 Chapter 186 Acts Thirty-ninth Legislature, Regular Session, 1925, so as to permit the State Highway Department, in conjunction with the Bureau of Public Roads, to expend upon roads not a part of the system of State highways, funds specifically appropriated for expenditure on such roads under the National Industrial Recovery Act, passed by Seventy-third Congress June 16, 1933, Act of Congress June 18, 1934 (H. R. 8781), and Emergency Relief Appropriation Act passed by Seventy-fourth Congress on April 8, 1935; to permit such funds to be supplemented for

certain purposes from the State Highway Fund; suspending all laws or parts of laws in conflict herewith; and declaring an emergency."

The committee report recommending that the bill be not printed was adopted by unanimous consent.

Senator Beck sent up the following amendments:

Amend S. B. No. 41 by striking out all below the enacting clause and substitute in lieu thereof the following:

Section 1. For a period of two years from and after the effective date of this Act, all moneys appropriated under the National Industrial Recovery Act, passed by the 73rd Congress June 16, 1933, Act of 73rd Congress June 18, 1934 (H. R. 8781) and Emergency Relief Appropriation Act, passed by the 74th Congress April 8, 1935, specifically for expenditure on roads not on the System of State Highways may be expended, by and through the State Highway Department in conjunction with the Bureau of Public Roads, for the improvement of such roads and said Federal Funds may be supplemented by such amounts of State funds as may be necessary for proper construction and prosecution of the work. State funds shall not be used exclusively for the construction of roads not on the System of State Highways, nor to enlarge a program for such construction as set up by the Federal Government, the expenditure of State funds on said roads being limited to cost of Engineering, overhead, construction and other costs on which the application of Federal funds is prohibited or impractical.

Sec. 2. It is specifically provided that all laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict but said laws are not otherwise repealed.

Sec. 3. The fact that the Federal Government has appropriated funds for immediate expenditure on roads which are not a part of the State system of highways for the purpose of alleviating the present economic condition, and the great need for such relief in this State creates an emergency and an imperative public necessity demanding that the Constitutional Rule requiring all bills to be read on three several days in each House be suspended, and the same is

hereby suspended, and this Act shall be in force and effect from and after its passage, and it is so enacted.

BECK.

Read and adopted.

Amend S. B. No. 41 by striking out all above the enacting clause and substitute in lieu thereof the following:

By Beck. S. B. No. 41.

#### A BILL

#### To Be Entitled

An Act to authorize the State Highway Department, in conjunction with the Bureau of Public Roads, to expend, for a period of two years from and after the effective date of this Act, upon roads not a part of the system of State highways, funds specifically appropriated for expenditure on such roads under the National Industrial Recovery Act, passed by the 73rd Congress June 16, 1933, Act of Congress June 18, 1934 (H. R. 8781), and Emergency Relief Appropriation Act, passed by the 74th Congress on April 8, 1935; to permit such funds to be supplemented for certain purposes from the State Highway Fund; expressly repealing all laws or parts of laws in conflict herewith to the extent of such conflict, but said laws are not otherwise repealed; and declaring an emergency.

BECK.

Read and adopted.

The bill was read second time, as amended, and passed to engrossment.

On motion of Senator Beck the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 41 was put on its third reading and final passage by the following vote:

Yeas—29.

Beck.	Oneal.
Blackert.	Pace.
Burns.	Poage.
Collie.	Rawlings.
Cotten.	Redditt.
Davis.	Regan.
DeBerry.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hopkins.	Stone.
Hornsby.	Sulak.
Isbell.	Van Zandt.
Martin.	Westerfeld.
Neal.	Woodruff.
Nelson.	

Absent—Excused.

Fellbaum. Moore.

Read third time and finally passed by the following vote:

Yeas—29.

Beck.	Oneal.
Blackert.	Pace.
Burns.	Poage.
Collie.	Rawlings.
Cotten.	Redditt.
Davis.	Regan.
DeBerry.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hopkins.	Stone.
Hornsby.	Sulak.
Isbell.	Van Zandt.
Martin.	Westerfeld.
Neal.	Woodruff.
Nelson.	

Absent—Excused.

Fellbaum. Moore.

H. S. R. No. 37.

On motion of Senator Martin H. S. R. No. 37 "Requesting the return of H. C. R. No. 13 to the House for correction" was adopted by viva voce vote.

H. C. R. No. 13.

H. C. R. No. 13 was withdrawn from the Committee on Rules and returned to the House by authority of H. S. R. No. 37.

Bills Referred.

H. B. No. 101 was referred to the Committee on State Affairs.

H. B. No. 114 was referred to the Committee on State Affairs.

Senate Bill No. 27.

Senator Neal was recognized and asked unanimous consent to take up out of order S. B. No. 27.

Objection was heard.

Motion to Recess.

Senator DeBerry at 5:10 o'clock p. m. moved that the Senate recess until 8:00 o'clock tonight.

The motion to adjourn lost by the following vote:

Yeas—9.

Davis.	Isbell.
Hill.	Rawlings.

Sanderford.  
Shivers.  
Small.

Stone.  
Sulak.

Nays—18.

Blackert.  
Burns.  
Collie.  
Cotten.  
DeBerry.  
Holbrook.  
Hornsby.  
Martin.  
Neal.

Nelson.  
Oneal.  
Pace.  
Poage.  
Redditt.  
Regan.  
Van Zandt.  
Westerfeld.  
Woodruff.

Absent.

Beck.

Hopkins.

Absent—Excused.

Fellbaum.

Moore.

Recess.

The motion to recess prevailed by viva voce vote.

After Recess.

The Senate met at 8:00 o'clock p. m. pursuant to recess and was called to order by Lieutenant Governor Walter F. Woodul.

**Senate Bill No. 23.**

Pending business was C. S. S. B. No. 23 with pending amendment.

Senator Burns asked unanimous consent that further reading of the amendment be dispensed with.

Objection was heard.

**Point of Order.**

Senator DeBerry raised the point of order that the amendment was out of order, in that it changes the purpose of the committee substitute which did not in any way mention the levying of a tax, and therefore is violative of Sec. 30 of Art. 3 of the Constitution of Texas.

Pending.

**Senate Resolution No. 17.**

Senator Holbrook sent up S. R. No. 17 in memory of General Jacob F. Wolters.

Senators Holbrook, Beck, Martin, Davis, Hornsby, Sulak, Cotten, Westerfeld, Small and Lieutenant Governor Woodul each spoke eulogizing General Wolters.

Adopted unanimously by a rising vote.

**Senate Bill No. 23.**

Pending business was the point of order raised by Senator DeBerry.

Senator Martin sought recognition to speak on the point of order.

The Chair withheld his ruling to allow Senator Martin to speak.

**Point of Order.**

Senator Hornsby raised the point of order that Senator Martin was discussing the bill and not the pending point of order.

The Chair sustained the point of order.

Senator Hornsby called for a ruling on the pending point of order.

The Chair sustained the pending point of order raised by Senator DeBerry.

Senator Shivers sent up the following amendment:

Amend committee substitute for S. B. No. 23 by striking all below the enacting clause and inserting therefor the following:

"Section 1. Creation of Fund.—There is hereby created a fund to be known and designated as "The Old Age Assistance Fund of the State of Texas" to be created, managed and disbursed as hereinafter set out in this Act.

"Sec. 2. To Whom Granted.—Subject to the provisions of this Act, persons who have attained the age of sixty-five (65) years or over shall, while residing in the State of Texas if deserving of assistance, be entitled to aid as hereinafter specified; such assistance to be paid shall not exceed the sum of Fifteen Dollars (\$15.00) per month from the fund hereafter created.

"Sec. 3. Old age assistance may be given under this Act to any person who:

"(1) Has attained the age of sixty-five (65) years or more;

"(2) Has income which, when added to the contributions and money, assistance or service from legally responsible relatives or others, is inadequate to provide a reasonable subsistence compatible with decency and health.

"The Director may in his discretion, after determining the income of

an applicant during the previous year as well as the prospects for income during the year for which application is made, modify the amount to be paid each applicant, and it shall be the duty of the Director to make such adjustment as will assure each person who qualifies under this Act who is deserving and in need of an income to average the maximum assistance per month as herein provided. It shall also be the duty of the Director to investigate the ability and willingness of the component members of said applicant's immediate family to assist in the support and maintenance of said applicant and to modify and adjust the assistance in accordance with the evidence found.

"(3) Is a bona fide citizen of the United States and the State of Texas;

"(4) Has been in actual residence in the State of Texas at least five (5) years during the nine (9) years immediately preceding application for old age assistance and continuously for one (1) year immediately preceding such application.

"The terms 'residence' and 'resided' as used in this Act shall denote actual physical presence within this State as distinguished from the words 'domicile' and 'residence' as used in their broader meaning.

"(5) Has an income, if a single person, from any and all sources not exceeding four hundred dollars (\$400.00) per year, or if married, a community income from any and all sources not exceeding six hundred dollars (\$600.00) per year.

"(6) No person who has more than five hundred dollars (\$500.00) in cash, on deposit in a bank, in postal savings or otherwise, or if the immediate cash value, as determined by the Director and subject to review by the Board, or his holdings of bonds, stocks, mortgages, other securities or investments, except real estate, exceeds five hundred dollars (\$500.00), shall be eligible for assistance. At the discretion of the Director, however, where such immediate sale, for cash, of such securities or investments necessitates an undue financial sacrifice, the applicant, when in immediate need of assistance, shall assign such securities and investments to the State to be held in trust by the Director to reim-

burse the old age assistance fund for the amount paid from the old age assistance fund in assistance or other benefits in behalf of said applicant. No person shall be allowed assistance if the claimant has deprived himself, directly or indirectly, of any property for the purpose of qualifying for old age assistance, or if the claimant or the husband or wife conveys or encumbers any real estate or other property owned by them or by either of them for the purpose of preventing the State from reimbursing itself for assistance granted or to be granted hereunder. A sworn statement by both the vendor and vendee of the reasons and/or considerations of any transfer of real and/or personal property within the five years immediately preceding the date of application for old age assistance may be required by the Board or Director to be made in such manner and on such forms as the Director may direct; provided, however, that no sworn statement need be made for any transfer prior to January 1, 1935, unless the Director so direct.

"(7) Is not at the time of making application receiving aid, or an inmate of any prison, jail, workhouse, insane asylum or any other public reform or correctional institution except for medical or surgical care.

"(8) Is not an habitual drunkard or an habitual criminal.

"Sec. 4. On the death of a person receiving or who has received assistance under this Act or of the survivor of a married couple, both of whom were so assisted, the total amount paid as assistance shall be allowed as a first lien claim against the estate of such deceased, and neither the homestead nor the proceeds shall be exempt from the payment of said claim, any Act or statute to the contrary notwithstanding with the single exception that expenses of the last illness and burial expenses shall be first paid out of the estate, and then the amount paid as assistance shall become a first preferred claim against the estate. The proceeds of such claim shall be paid into the old age assistance fund. In case of the death of either husband or wife, both of whom have been receiving or have received assistance under this Act, the estate of deceased

shall not be settled or the homestead sold until a surviving spouse shall die or cease to occupy the homestead as such.

"In the event the assistance furnished under this Act shall be and constitute a lien on any real estate owned either by the husband or wife for assistance furnished to either of such persons. Whenever an order is made for such assistance to any person in whom or in whose spouse the title to any real estate is fixed, a copy of such order shall be indexed and recorded in the manner provided for the indexing of real estate mortgages in the office of the County Clerk in the county in which the real estate is situated, and such recording and indexing shall constitute notice of such lien. The County Clerk shall not charge a fee for such recording and indexing. The Director shall release liens accruing under the provision of this section and Act when fully paid and when compromised and settled, or when the estate of which real estate affected by this Act is a part has been probated and the proceeds allowable have been applied on such liens.

"Any sums of money collected by the State of Texas or political subdivision thereof from the estate of any recipient of old age assistance under the terms of this Act with respect to old age assistance furnished under this plan shall be divided after the net amount thereof has been determined, and one-half (1/2) thereof shall be paid promptly to the United States and be deposited in the United States Treasury, and the remaining amount shall be deposited with the Treasurer of the State of Texas to the credit of the Old Age Assistance Fund herein created.

"The Attorney General at the request of the Director shall take the necessary proceedings and represent and advise the Director in respect to any matters arising under this Act.

"Sec. 5. Any person who has been granted a certificate of old age assistance and is receiving payments of assistance from the Old Age Assistance Fund may petition the Director to accept an assignment of any assignable death benefits, loan value or cash surrender value of any life insurance policy, death or funeral benefit of any association, so-

ciety or organization requiring further payment of premiums or assessments which such person believes he is unable to pay. The Director may accept such assignments if he deems such act advisable and in the best interest of such person and the State; but upon the payment of such death benefit or other sum due under the policy, the Director shall first deduct the amount of the funeral expenses incurred; and second, the amount of the premiums or assignments paid by the Director to keep the insurance or benefit in force; and third, the amount of assistance paid to such person, all of which shall accrue to the Old Age Assistance Fund. The Director shall pay the balance received, if any, as directed by the insured, either to persons or into the Old Age Assistance Fund, as may be the wish of the insured at the time of the assignment.

"Sec. 6. Upon the death of a recipient of old age assistance, the Director shall be authorized to defray, if necessary, the burial expenses of such deceased person in an amount not to exceed one hundred dollars (\$100.00).

"Sec. 7. Application Requirements. (a) Persons claiming such assistance under the terms of this Act shall make application for same in writing and under oath and file the same with the County Clerk of his or her county. Such application shall contain the name, age, date of birth, residence of the applicant, mailing address and occupation; said application shall give the place, or places of residence of the applicant during the ten years immediately preceding the filing of the application and the time of such residence, the name of the parents of the applicant, and if living, the place of residence of each. Such application shall be prepared in triplicate and all of said copies shall be filed with the County Clerk.

"(b) Upon the filing of said application, the County Clerk shall docket said cause in a bound book provided for that purpose which shall be known as the 'Old Age Assistance Docket.' Upon filing of said application, the County Clerk shall forthwith transmit one of the copies of such application to the County Judge of said county, who shall proceed to hear the same.

"Sec. 8. Hearing upon Application. (a) In the event that the County Judge is satisfied as to the correctness of the facts set forth in said application and that said application meets the requirements of this act, he shall endorse his approval on said application and not same upon the 'Old Age Assistance Docket.'

"(b) In the event the County Judge is dissatisfied with the application or the facts therein alleged, he shall set same for hearing and shall have authority to subpoena witnesses, to interrogate them, and to make such investigation as to said County Judge may seem proper.

"Sec. 9. Transmittal of Record.—Upon the approval of such application by the County Judge as herein set out, the County Clerk shall transmit said application, together with the approval of the County Judge, to the Director of Division of Public Welfare at Austin, Texas. A certificate of the Clerk shall accompany said application and order of approval, and said certificate shall set forth all facts necessary to show that said application is authentic and has been duly approved by the County Judge.

"Sec. 10. In the event that any application so filed and presented to the County Judge is disapproved and rejected by the County Judge, such applicant shall be entitled to and shall have an opportunity to present his application as a appeal to the Director, who shall give a full and fair hearing to such applicant; and in the event such Director finds that the County Judge has erred in his conclusions, then such application shall stand approved and shall be placed upon the rolls of those entitled to old age assistance as hereinafter provided. The Director shall have the power and authority to reject any application certified to him if in his judgment the County Judge has erred in his approval.

"Sec. 11. Receipt, Filing and Approval of Application.—Upon receipt of the application, order of approval and certificate as required in Section 10 hereof, the Director shall carefully examine the same, and if found to be correct and in compliance with law, he shall file the same, approve the application, and place the name of such applicant upon the Roll of those entitled to old age assistance as provided in this Act. In the event

the Director finds that said application is defective in any respect or fails to meet the requirements of the law, such application, order of approval and certificate shall be returned to the County Clerk transmitting the same. A letter shall accompany such application, order of approval and certificate setting forth wherein same fails to meet such requirements, and same shall be subject to amendment and correction. A copy of such letter shall be sent by the Director to the applicant at the address shown in such application.

"Sec. 12. Time of Payment.—The payments herein provided for old age assistance shall be made monthly.

"Sec. 13. Determination and Allocation.—(a) The amount of money in the Old Age Assistance Fund accumulated as by law provided shall be determined as of the first day of April, 1936, and as of the first day of each month thereafter. If such amount be sufficient to pay each and every person whose name appears upon the Roll for Old Age Assistance a sum equal to fifteen dollars (\$15.00) per month, a warrant shall be issued to such person for said amount in the manner hereinafter provided. In the event said fund is insufficient to pay the full sum of fifteen dollars (\$15.00) per month as above set forth, then the amount of money to the credit of said fund for each month as of the first day of each month thereafter shall be distributed to the persons whose names appear on said roll on a pro rata basis.

"(b) The rights to payments from said fund shall be determined either as of January 1, 1936, or of the first day of the month of the placing of the name of the applicant on the roll, whichever date is later. Provided, however, that old age assistance payments herein provided for shall date from the making of application therefor, if it shall be shown that on said date the applicant was entitled under the provisions hereof to receive said payments.

"(c) The Director shall on the fifteenth (15th) day of March make a report to the Comptroller of the names of all applications granted for the month of January, and on the fifteenth (15th) of each month thereafter of all applications granted on



file the first day of the next succeeding month to the one for which payment has been made, setting forth the name and postoffice address of each person entitled to assistance under the terms of this Act, together with the amount due to each such person for the month ending on the last day of the preceding month. The list so prepared shall be certified to by the Director and the correctness thereof shall be sworn to by the person who actually supervises the preparation of such list.

"(d) Upon receipt of the certified list provided for under paragraph 'c' of this section, the Comptroller shall immediately draw warrants on the Treasury of the State of Texas against the Old Age Assistance Fund. When same have been prepared, signed and registered, such warrants shall be delivered by the Comptroller to the Director, who shall verify the same, and mail the warrants to the respective payees at the address disclosed by the records in the office of the Director.

"Sec. 14. Incompetence of Claimant.—If it shall come to the attention of the Director, upon the testimony of credible or reputable witnesses, that any person receiving assistance is incompetent to take care of himself or his money, the Director may direct the payment of such installment to be made to any responsible person or corporation for his benefit, provided the persons or corporation to whom such payment is made shall be designated with the advice and consent of the County Judge of the county in which such incompetent person may reside.

"Sec. 15. If at any time the Director or his assistants shall have reason to believe by reason of complaint or otherwise that old age assistance has been improperly granted, he shall cause an investigation to be made, and if it appears, or if the Director has reason to believe as a result of such investigation that the assistance was improperly granted, all payments shall temporarily cease. Such person so receiving assistance which has been the subject of an investigation as herein provided shall be given notice of the temporary suspension of payments, and shall be given an opportunity to show cause why same should not be permanently discontinued. If, upon hearing, the

Director shall conclude that aid was improperly granted to such person, future payments shall be forfeited and the name of such person shall be stricken from the Roll by the Director.

"Sec. 16. Assistance payments not Subject to Debts—Assistance payments under this Act shall not be assignable, and shall not be subject to garnishment or any other legal writ.

"Sec. 17. Fraud in procuring.—Any person who, by means of any willfully false statement, representation or by impersonation, or other fraudulent device, obtains or attempts to obtain, or any person who aids and abets any person to obtain assistance to which he is not entitled, shall be guilty of a felony, and on conviction shall be confined in the State Penitentiary for a term of not less than two nor more than five years.

"Sec. 18. Any person convicted of the offense defined under Section 17 of this Act shall be perpetually barred from participating in any future disbursement of the funds herein created.

"Sec. 19. Statewide Application.—This Act shall be a General Law and shall apply alike to each and every political subdivision of this State.

"Sec. 20. State shall participate.—The State shall financially participate in the raising of the fund as herein provided.

"Sec. 21. Administration.—This law for old age assistance shall be administered by the Board of Control through the Director of the Division of Public Welfare, who shall administer this law and supervise its enforcement.

"Sec. 22. Reports to Social Security Board.—It shall be the duty of the Director to make such reports as shall be required by the Social Security Board of the United States, same to be in such form and contain such information as said Board may from time to time require; and said Director shall, from time to time, comply with such requirements as may be made by said Board not inconsistent with this Act as said Board may find necessary to insure correctness and verification of the reports made to such Board.

"Sec. 23. Acceptance of Federal Aid.—The State of Texas hereby ac-

cepts the provisions and benefits of the 'Social Security Act' enacted by the Congress of the United States, and the Director of Old Age Assistance shall be and he is hereby authorized to accept such grants of Federal funds for the purpose of this Act as shall be granted to the State of Texas by the Federal Government and/or the Congress of the United States.

"Sec. 24. Federal grants to be in Addition to the Funds Herein Granted.—The payments herein made under the terms and limitations set forth in this Act shall not be dependent upon any grant made to the State of Texas by the Federal Government, but same shall be in addition and supplemental to such grants. The Director shall administer such Federal grants, if any, allotted to the State of Texas by reason of this Act under such rules and regulations as the Social Security Board may promulgate, and in conformity with this Act.

"Sec. 25. The Director is authorized to accept in behalf of the State of Texas any gifts, deeds or bequests of money or property, the proceeds of which shall accrue to the benefit of the Old Age Assistance Fund. In making such gifts or contributions, the donor shall attach no conditions whatever. The sole management and disposition of the property so received shall be in the Board of Control.

"Sec. 26. The Board of Control shall administer this law through an additional division thereof to be known as the Division of Public Welfare of the Board of Control.

"Sec. 27. The Board of Control shall appoint a Director of the Division of Public Welfare.

"Sec. 28. Term of Office.—The term of office of such Director shall commence on January 1, 1936, and expire on December 31, 1937. The Board of Control shall make appointment of a successor immediately each succeeding two years, or to fill any vacancy that may arise in said office.

"Sec. 29. Oath and Bond.—Within ten days after notice of his appointment and before assuming the duties of his office, said Director shall take the oath of office provided by the Constitution of this State, and shall give bond payable to the State of Texas in the sum of Ten Thousand Dollars (\$10,000.00), to be approved

by the Board of Control. Said bond shall be made by a surety company as surety and be conditioned upon the faithful discharge of duty. The premium upon said bond shall be paid out of the Old Age Assistance Fund herein created upon warrants drawn by the Comptroller upon the Treasury, upon the order of the Board of Control. The bond shall be approved by the Attorney General as to form, and the surety company shall be approved by the State Auditor as to solvency.

"Sec. 30. Qualifications.—Such Director shall be not less than thirty-five (35) years of age at the date of his appointment. He shall be a resident citizen of the State of Texas and shall have resided within the State for at least ten (10) years consecutively next preceding the date of his appointment, and he shall not be the occupant of any state office at the time of his appointment, nor have occupied any state office during the year next preceding the date of said appointment.

"Sec. 31. Compensation of Director.—The Director shall receive as compensation the sum of Four Thousand Eight Hundred Dollars (\$4,800.00) per annum, payable in twelve (12) equal installments. The salary and compensation of the Director, his deputies and assistants, as well as necessary traveling and other expenses, shall be paid from the fund herein created, but in no event shall the total expense of the administration of this law exceed one per centum (1%) of the fund so administered by the Director for the purpose of old age assistance.

"Sec. 32. Deputy Director.—The Director may appoint a competent Deputy Director to be known and designated as 'Chief Deputy Director,' who shall possess all the powers and perform all the duties attached by law to the office of Director during the necessary or unavoidable absence of the Director, or his inability from any cause to act. The Deputy Director shall possess all the qualifications of the Director.

"The Director shall be responsible for the acts of his Chief Deputy who shall, before entering upon the duties of the position, take the oath required of the Director. He shall also be required by the Director to enter into bond, with security payable to the Director, conditioned on

the faithful performance of the duties of his office. The amount of the bond so furnished shall be determined by the Director and the premiums therefor shall be paid as an expense of administering this law.

"Sec. 33. Compensation of Chief Deputy Director.—The Chief Deputy Director shall receive as compensation the sum of Four Thousand Dollars (\$4,000.00) per annum, payable in the same manner as the compensation for the Director.

"Sec. 34. Other Employees.—The Director shall have the authority to appoint such other deputies, assistants, and clerical employees as may be necessary under the provisions of this Act, and within the discretion of such Director. He may require such bonds of his employees provided by statute as will insure the faithful discharge of their respective duties. The Director shall be responsible for all of the acts of each of his employees in the manner as he is responsible for the acts of his Chief Deputy.

"Sec. 35. Compensation of Employees.—The compensation to be paid to the employees in the Director's office shall be set by the Director, subject to the following limitations:

"(a) No Deputy Director, except the Chief Deputy, shall receive a salary of more than Three Thousand Dollars (\$3,000.00) per year, and only three such deputies shall receive as much as Three Thousand Dollars (\$3,000.00), within the discretion of the Director. All other deputies, if same are necessary for the adequate administration of this law, shall receive a salary to be set by the Director not to exceed Twenty-Four Hundred Dollars (\$2,400.00) per year, and clerks not to exceed Twelve Hundred (\$1200.00) Dollars per year, and stenographers not to exceed Fifteen Hundred Dollars (\$1,500.00) per year.

"Sec. 36. Reports of the Director.—The Director, within ninety (90) days after the close of each fiscal year, shall make a report to the Board of Control and the Legislature for the preceding year, setting out the following:

"1. The name and position of each employee, and the salary paid to such employee.

"2. The total number of persons

receiving Old Age Assistance under the terms of this Act.

"3. The amount paid per person during the year.

"4. The total number of applications for assistance received.

"5. The total number of applications granted.

"6. The total number of applications denied.

"7. The total number of cancelled during the year.

"8. The amount of money allocated to the individual under the terms of this Act for each month of the year preceding.

"9. Any other pertinent information applicable to the administration of this law which, in the opinion of the Director, should receive the attention of the Board of Control and the Legislature.

"10. The Director is empowered to make such rules and regulations as he may deem best for the purpose of properly identifying all applicants for old age assistance, including fingerprinting, at the time of making said application.

"11. Said report shall also contain the recommendations of the Director as to such changes and amendments as should be made in this law.

"Sec. 37. For the purpose of determining the age of an applicant for aid under this act, consideration shall be given to any of the following documents:

"(a) Certificate of birth;

"(b) Certificate of baptism;

"(c) Statement of age as recorded on marriage license or certificate;

"(d) Statement of age of the applicant as recorded by the registrar of voters of this State, or any political subdivision thereof, at least five years prior to the date of such application as shown by the records of the department of elections of this State or any political subdivision thereof;

"(e) Entries in the family Bible or other genealogical record or memorandum of the family of such applicant;

"(f) The returns of the United States census taken at least five years prior to the date of such application;

"(g) The affidavit of a reputable person if it is based upon his personal knowledge of facts which would determine the probable age of

the applicant and is not merely a statement of belief based on applicant's personal appearance; such affidavit shall contain statements of the circumstances upon which said affiant's knowledge is based and same shall be submitted to the Director of Old Age Assistance, and where such affidavit is deemed by said Director not to present satisfactory evidence of applicant's age, the said Director may require a further affidavit of more conclusive proof; such an affidavit, however, shall not be accepted to establish proof of age until all reasonable efforts to produce more substantial documentary evidence of applicant's age have failed;

"(h) Such other evidence as the Director of Old Age Assistance may approve.

"Sec. 38. The fact that the citizens of Texas by their recent overwhelming vote have expressed their desire to give the citizens of this State past the age of sixty-five years the assistance herein granted, and the further fact that there are many citizens who are over the age of sixty-five years and who are unemployed and do not have sufficient funds to buy the actual necessities of life, and they are in actual need at this time, creates an emergency and an imperative public necessity, demanding the suspension of the constitutional rule requiring bills to be read on three separate days in each House, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

SHIVERS.

#### Motion to Recess.

Senator Poage at 10:05 o'clock p. m. moved that the Senate recess until 10:00 o'clock a. m. Wednesday. Pending.

#### Senate Bill No. 50.

Senator Cotten was recognized and received unanimous consent to suspend the regular order of business to take up S. B. No. 50.

#### Senate Bill No. 50.

The Chair laid before the Senate on its second reading the following bill:

By Senator Cotten:  
S. B. No. 50, A bill to be entitled

"An Act amending Chapter 171, Acts of the Regular Session of the Forty-fourth Legislature by adding thereto a new section to be numbered as Section 6a, providing for the judge of the Eighty-seventh Judicial District Court, on motion or of his own volition, to transfer causes and action, civil and criminal, pending in Limestone and Freestone counties from said Eighty-seventh Judicial District Court to the Seventy-seventh Judicial District Court in said counties, respectively, and likewise to transfer causes and actions, civil and criminal, pending in Anderson County to the Third Judicial District Court in Anderson County; and likewise authorizing empowering the judge of the Seventy-seventh Judicial District Court in Limestone and Freestone counties, on motion or of his own volition, to transfer causes pending in the Seventy-seventh Judicial District Court to the Eighty-seventh Judicial District Court in said counties; and likewise authorizing and empowering the judge of the Third Judicial District Court in Anderson County, on motion or of his own volition to transfer causes pending in said Third Judicial District Court to the Eighty-seventh Judicial District Court in said county, repealing all laws in conflict herewith and declaring an emergency."

The rule requiring committee reports to lie over one day was suspended by unanimous consent.

The committee report recommending that the bill be not printed was adopted by unanimous consent.

The bill was read second time and passed to engrossment.

On motion of Senator Cotten the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 50 was put on its third reading and final passage by the following vote:

Yeas—26.

Blackert.	Isbell.
Burns.	Martin.
Collie.	Neal.
Cotten.	Nelson.
Davis.	Oneal.
DeBerry.	Pace.
Hill.	Poage.
Holbrook.	Rawlings.
Hopkins.	Redditt.
Hornsby.	Sanderford.

Shivers. Sulak.  
Small. Van Zandt.  
Stone. Woodruff.

Absent.

Beck. Westerfeld.  
Regan.

Absent—Excused.

Fellbaum. Moore.

Read third time and finally passed  
by the following vote:

Yeas—26.

Blackert.	Nelson.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Rawlings.
DeBerry.	Redditt.
Hill.	Sanderford.
Holbrook.	Shivers.
Hopkins.	Small.
Hornsby.	Stone.
Isbell.	Sulak.
Martin.	Van Zandt.
Neal.	Woodruff.

Absent.

Beck. Westerfeld.  
Regan.

Absent—Excused.

Fellbaum. Moore.

#### Senate Bill No. 27.

Senator Neal was recognized  
and asked unanimous consent to take  
up S. B. No. 27.

There was objection.

Senator Martin received unani-  
mous consent to take up out of or-  
der S. C. R. No. 4.

#### S. C. R. No. 4.

The Chair laid before the Senate  
on its second reading the following  
resolution:

S. C. R. No. 4, A concurrent reso-  
lution "Permitting Mr. H. C. Bran-  
non, and wife, Joe Brannon, to sue  
the State."

MARTIN.

The rule requiring committee re-  
ports to lie over one day was sus-  
pended by unanimous consent.

Adopted by viva voce vote.

#### Vote Recorded.

Senator DeBerry asked to be re-  
corded as voting "no" on adoptoin  
of S. C. R. No. 4.

#### Motion to Adjourn.

Senator Small at 10:13 o'clock  
p. m. moved that the Senate adjourn  
until 10:00 a. m. Wednesday.

The motion to adjourn lost by the  
following vote:

Yeas—10.

Cotten.	Redditt.
Holbrook.	Sanderford.
Hopkins.	Small.
Neal.	Stone.
Rawlings.	Van Zandt.

Nays—16.

Blackert.	Martin.
Burns.	Nelson.
Collie.	Oneal.
Davis.	Pace.
DeBerry.	Poage.
Hill.	Shivers.
Hornsby.	Sulak.
Isbell.	Woodruff.

Absent.

Beck. Westerfeld.  
Regan.

Absent—Excused.

Fellbaum. Moore.

Senator Rawlings moved that the  
Senate adjourn until 9:30 o'clock  
a. m. Wednesday.

The motion lost by the following  
vote:

Yeas—8.

Holbrook.	Sanderford.
Hopkins.	Small.
Rawlings.	Stone.
Redditt.	Van Zandt.

Nays—18.

Blackert.	Martin.
Burns.	Neal.
Collie.	Nelson.
Cotten.	Oneal.
Davis.	Pace.
DeBerry.	Poage.
Hill.	Shivers.
Hornsby.	Sulak.
Isbell.	Woodruff.

Absent.

Beck. Westerfeld.  
Regan.

**Absent—Excused.**

Fellbaum.                      Moore.

**Recess.**

The motion to recess prevailed by the following vote:

**Yeas—18.**

Blackert.	Neal.
Burns.	Nelson.
Cotten.	Oneal.
Davis.	Pace.
DeBerry.	Poage.
Hill.	Shivers.
Hornsby.	Sulak.
Isbell.	Van Zandt.
Martin.	Woodruff.

**Nays—8.**

Collie.	Redditt.
Holbrook.	Sanderford.
Hopkins.	Small.
Rawlings.	Stone.

**Absent.**

Beck.                      Westerfeld.  
Regan.

**Absent—Excused.**

Fellbaum.                      Moore.

**APPENDIX.****Petitions and Memorials.**

The Dallas Morning News  
The Dallas (Eve.) Journal  
The Semi-Weekly Farm News  
The Texas Almanac  
G. B. Dealey, President.  
Dallas, Texas, October 5, 1935.  
To the Honorable Senate of the State of Texas,  
Austin, Texas.  
Gentlemen:

The resolution adopted October first in reference to The Dallas Morning News, signed by the President Pro Tempore and the Secretary of your honorable body, has been received and fittingly will be placed among the cherished documents of our archives.

In behalf of the A. H. Belo Corporation and of the many employees who have helped to make The News what it is, I desire to express my most hearty appreciation of your courtesy and to voice the hope that the relations of The News with the

Legislature and other branches of the Government of Texas may be as cordial during the next fifty years as they have been in the period of 1885-1935.

As fellow workers in Texas we have a common purpose to exalt the dignity of our great State and to bring true prosperity to its citizens.

Respectfully,

G. B. DEALEY, President.

Texakana, Texas,

October 7, 1935.

Mr. Bob Barker, Secretary of the Senate.

Austin, Texas.

Dear Mr. Barker:

I appreciate very much your letter of October 5th, and Senate Resolution No. 14, by Senator Redditt and Beck, on the death of my father, Thomas L. L. Temple.

This was a very generous act and of course I feel it was a most fitting one, in view of the noble character of my father and the great good which he did in upbuilding a number of communities in Texas, in developing one of the State's greatest natural resources, and, the greatest of all, in giving employment to thousands of men.

In grateful acknowledgement of this resolution which I shall have framed and hung in my office, I am

Sincerely yours,

ARTHUR TEMPLE.

AT:IM

**Committee Reports.**

Committee Room,  
Austin, Texas, October 8, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 61, A bill to be entitled "An Act directing that the Commission of Control for the Texas Centennial be directed to pay the heirs and legatees of Thomas F. McKinney the sum of \$16,942.80 out of moneys appropriated for the Centennial by H. B. No. 11, Chapter 174, Acts of the Regular Session, Forty-fourth Legislature, and declaring an emergency."

Have had the same under consideration, and I beg to report it back with the recommendation that it do pass and be printed in the Journal and not elsewhere.

REDDITT, Chairman.

By Woodruff and  
Van Zandt.

S. B. No. 61.

Whereas, The firm of McKinney & Williams, of which firm Thomas F. McKinney was a member owning an undivided one-half interest, advanced to The Republic of Texas in excess of \$150,000.00 for the purpose of financing the war of the Republic of Texas against Mexico. The Republic of Texas was without funds and practically without credit, and McKinney & Williams gave not only their time and services, but loaned their money and credit and advanced merchandise to the government and without which it would have been difficult, if not impossible, for the Republic to have supported the war and maintained its independence.

These are historical facts supported by the works of recognized historians, as well as by many official documents, some of which will be referred to.

The indebtedness due by the Republic of Texas to McKinney & Williams was settled in part by various arrangements made with them, which included the issuance to them of Land Script. The credit and business of McKinney & Williams was so impaired by advances made by them to the Republic of Texas as to result in their ruin financially, and in an effort to recoup their fortunes, they were compelled to sell the Land Scrip issued to them by the government at a great sacrifice but it is not on account of these losses or damages that this claim is predicated; and,

Whereas, The records show that the Legislature of the State of Texas, at its Sessions held in the years 1871 and 1873 respectively, recognized that the State was justly indebted to Thomas F. McKinney as his part of the unpaid partnership indebtedness, in the sum of \$16,942.80; and,

Whereas, The above claim passed the House and Senate in 1929 and would have been approved by Governor Dan Moody except for the fact that he vetoed the entire Claims and Accounts Bill for the reason that there was insufficient money in the State Treasury to pay all of the appropriations made by the Legislature; and,

Whereas, This sum has never been paid and is still due and that in 1936 the State of Texas is celebrating its Centennial honoring the great patriots who won their independence from Mexico and establishing this Government; and,

Whereas, This claim is one based upon money and supplies actually advanced to assist in the winning of our independence; now therefore, there is introduced;

#### A BILL

##### To Be Entitled

An Act directing that the Commission of Control for the Texas Centennial be directed to pay the heirs and legatees of Thomas F. McKinney the sum of \$16,942.80 out of moneys appropriated for the Centennial by House Bill No. 11, Chapter 174, Acts of the Regular Session, 44th Legislature, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The Commission of Control for the Texas Centennial is directed to pay the sum of \$16,942.80 out of moneys appropriated from the State Treasury by House Bill No. 11, Chapter 174, Acts of the Regular Session, 44th Legislature, not specifically otherwise directed by said House Bill No. 11, to Reynolds Lowry, Anna McKinney Lowry, and Mrs. Mary Nelson Lowry Nolen, nee Mary Nelson Lawry, share and share alike, in full settlement of their right, title, interest and claim, and the right, title, interest and claim of any and all heirs and representatives of Thomas F. McKinney against the State of Texas, for, or on account of money, property and credit, and advances of every character furnished by the said Thomas F. McKinney to the Republic of Texas. For further certainty, it is directed that the Comptroller shall deliver the warrant for the sum hereinabove allowed, only upon the filing with him of a certificate of the County Judge of Travis County, where said claimants reside, to the effect that properly certified copies of the Wills of the said Thomas F. McKinney and his wife, Mrs. Anna McKinney, have been filed with him, together with at least two written affidavits of responsible and credible persons, showing that claimants are the only children and heirs at law of Mrs. Mag.

A. Lowry, a residuary legatee, and that under the provisions of said Wills and the facts, said sum is legally payable to the said Reynolds Lowry, Anna McKinney Lowry, and Mrs. Mary Nelson Nolen.

Sec. 2. The fact that this claim is long outstanding and is one of honor against the State of Texas and the further fact that the Session is drawing to a close, creates an emergency and an imperative public necessity that the constitutional rules requiring Bills to be read on three several days in each House be suspended and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, Oct. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 1, A bill to be entitled "An Act regulating the manufacture, sale, importation, transportation and possession of alcoholic liquors; levying taxes; prescribing penalties for violations; repealing conflicting laws and parts of laws; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute in lieu thereof do pass, with Committee Amendment No. 1, and that the Committee Substitute only be mimeographed.

PACE, Chairman.

Committee Room,

Austin, Texas, Oct. 8, 1935.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 83, A bill to be entitled "An Act fixing the compensation of district attorneys in judicial districts composed of two (2) or more counties; providing that this Act shall not deprive such district attorneys of their expense allowance; providing for the disposition of fees; commissions and perquisites earned and collected by such district attorneys; providing that nothing in this Act shall affect the laws now in existence with reference to assistance district attorneys, investigators and stenographers, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it pass and be printed.

PACE, Chairman.

Committee Room,

Austin, Texas, Oct. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

S. B. No. 50, A bill to be entitled "An Act amending Chapter 171, Acts of the Regular Session of the Forty-fourth Legislature by adding thereto a new section to be numbered as Section 6a, providing for the Judge of the Eighty-seventh Judicial District Court, etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SMALL, Chairman.

Committee Room,

Austin, Texas, October 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Highways and Motor Traffic, to whom was referred

S. B. No. 53, A bill to be entitled "An Act creating a special road law for Bailey County, Texas, providing that said county may fund or refund the indebtedness outstanding against its road and bridge fund as of April 10, 1935, setting forth the method of operation, etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HOPKINS, Chairman.

Committee Room,

Austin, Texas, October 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Highways and Motor Traffic, to whom was referred

S. B. No. 54, A bill to be entitled "An Act creating a special road law for Lamb County, Texas, providing that said county may fund or refund the indebtedness outstanding against



its road and bridge fund as of April 13, 1935, setting forth the method of operation, etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HOPKINS, Chairman.

Committee Room,

Austin, Texas, October 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Highways and Motor Traffic, to whom was referred

S. B. No. 55, A bill to be entitled "An Act creating a special road law for Hartley County, Texas, providing that said county may fund or refund the indebtedness outstanding against its road and bridge fund as of May 23, 1935, setting forth the method of operating, etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HOPKINS, Chairman.

Committee Room,

Austin, Texas, October 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Highways and Motor Traffic to whom was referred

H. C. R. No. 6, Granting Mrs. Beulah McFarland and husband, V. C. McFarland, and A. D. Baker and wife, Alty Baker, permission to sue the State of Texas and/or the State Highway Department of Texas, in any court of competent jurisdiction in Travis County, etc.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HOPKINS, Chairman.

Committee Room,

Austin, Texas, October 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Highways and Motor Traffic, to whom was referred

H. C. R. No. 7, Granting Willie N. Gotcher permission to sue the State of Texas and/or the State Highway Department in a court of competent Jurisdiction in Travis County, etc.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HOPKINS, Chairman.

**In Memoriam**

**General Jacob F. Wolters**

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**SENATE RESOLUTION NO. 17.**

WHEREAS, The Senate of Texas was profoundly shocked this afternoon when it learned of the untimely passing of General Jacob F. Wolters of Houston, Texas; and

WHEREAS, His long and distinguished career, both as a private citizen and public official, marked him as one of the outstanding citizens of this State, and causes the Senate to here take notice of his career:

General Wolters was born in Schulenberg, Texas, sixty-four years ago, and during his early years gave promise of a sturdy and useful career. He attended the common schools of Fayette County and finished his education at Ad-Ran University, after which he pursued the law in the office of his friend and preceptor, the Honorable Jonathan Lane of La Grange, Texas, with whom he afterwards formed a partnership which continued for several years. During that time General Wolters became one of the outstanding attorneys of the State, as well as one of the leaders in the Democratic Party. He served for some time in the House of Representatives of Texas from Fayette County and became a real leader in matters of legislation during that period. Always a staunch Democrat, from which faith he never swerved, he gave battle during his young manhood to the Populist Party in Texas and helped in many instances to beat down the specios doctrine which they preached and substitute therefor the Democratic faith of his fathers. He possessed always a love for military life, and was probably the most distinguished member of the Texas National Guard for more than a third of a century. He entered the Spanish-American War in 1898, and from that time on was considered by Military authorities throughout the United States as one of their most valiant commanders. During the past generation there have occurred in Texas many incidents which caused our several Governors to call him to leadership in quelling strikes, mobs and other forms of lawlessness. In each and every instance General Wolters distinguished himself with honor to the State. As a lawyer, citizen, militarist and leader of men he had few equals, and in his passing the great citizenship of Texas have sustained an irreparable loss.

We bow our heads in sorrow in the thought that our friend and patriot has crossed the Great Divide. May his soul rest in peace, and bloom with effulgent glory in that Land of Eternal Sunshine and Unfading Flowers for which a life of service has made him worthy.

All that we can say and do now is ADIOS AMIGO—HAIL AND FAREWELL.

As a tribute to his memory and sterling character it is resolved by the Senate of Texas that a copy of this Resolution be printed in the Journal; that one copy each be mailed to the several members of his Family, and that when the Senate adjourns for the day it do so in his honor.

BE IT FURTHER RESOLVED, That the Lieutenant Governor appoint a Committee of the Senate to attend his funeral.

Respectfully submitted,

HOLBROOK,  
SULAK,  
BECK,  
BLACKERT,  
BURNS,  
COLLIE,  
COTTEN,  
DAVIS,  
DeBERRY,  
FELLBAUM,  
HILL,

HOPKINS,  
HORNSBY,  
ISBELL,  
MARTIN,  
MOORE,  
NEAL,  
NELSON,  
ONEAL,  
PACE,  
POAGE,  
RAWLINGS,

REDDITT,  
REGAN,  
SANDERFORD,  
SHIVERS,  
SMALL,  
STONE,  
VAN ZANDT,  
WESTERFELD,  
WOODUFF.

Adopted unanimously by a rising vote.